PUBLIC HEALTH ACTS
1885

Supplement to

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WITH

INTRODUCTION, EXHAUSTIVE NOTES, AND COPIOUS INDEX.

Second Edition.

By W. PATCHETT, Esq., Q.C.,

AND

ALEXANDER MACMORRAN, Esq.,

Of the Middle Temple, Barrister-at-Law.

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SUPPLEMENT

TO THE SECOND EDITION OF

Lumley's Public Health.

March 25th 1886

THE

PUBLIC HEALTH ACTS, 1885,

INCLUDING

THE HOUSING OF THE WORKING CLASSES ACT, 1885,

With Copious Notes and Index,

AND A

DIGEST OF ALL THE CASES DECIDED

ON PUBLIC HEALTH AND LOCAL GOVERNMENT DURING THE YEAR,

BEING A SUPPLEMENT TO

LUMLEY'S PUBLIC HEALTH.

BY

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PREFACE.

THIS Work is intended to be a Supplement to the Second Edition of *Lumley's Public Health Acts*, published in October, 1884. Since that date, a number of Acts relating to Public Health and Local Government have been passed, some of them of much importance. The first part of this Work sets out these Acts, with Notes, in the same manner as that adopted in *Lumley's Public Health*. One of these Acts, the Housing of the Working Classes Act, 1885, having amended nearly all the Statutes relating to Dwellings and Lodgings for the Labouring Classes, the present seemed a good opportunity of collecting these Acts as amended, and they are accordingly set out in the first part of the Appendix to this volume. The Author has endeavoured to make the Notes to these Statutes as practical as possible. The second part of the Appendix is a Digest of all the cases reported from October, 1884, to the end of the year 1885.

2, Elm Court, Temple,
January 18th, 1886.

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THE PUBLIC HEALTH AND LOCAL GOVERNMENT CONFERENCES ACT, 1885.

(48 & 49 Vict. Cap. 22.)

An Act to provide for Expenses incurred in relation to Conferences of Local Authorities. [25th June, 1885.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Sect. 1.

1. This Act may be cited as the Public Health and Local Government Conferences Act, 1885.

Short title.

2. Any local authority may, when empowered by and subject to any regulations made by the Local Government Board in that behalf (which regulations the said Board is hereby authorized from time to time to make, vary, or rescind), pay the reasonable expenses of any member or members or clerk to the local authority attending any conference or meeting of members of local authorities held for the purpose of discussing any matter which is connected with the duties which devolve on them, and any reasonable expenses incurred in purchasing reports of the proceedings of any such meeting or conference, and may charge the amount to any rates applicable to the general purposes of the Public Health Act, 1875, within their district.

Expenses of local authorities may be allowed.

38 & 39 Vict. c. 55.

The foregoing enactment is simply a repetition, *mutatis mutandis*, of the Poor Law Conferences Act, 1883 (46 Vict. c. 11). At the time of writing no regulations have been made under the present Act, but they will no doubt follow those made under the Act of 1883, which are as follows:—

(1.) The expenses incurred in attending a conference shall only be paid in respect of attendance at the central conference held in London, or at a conference convened for a district including the union from which the persons attending as representatives are sent, and held at a place distant not more than one hundred miles from such union.

(2.) The attendance at any conference of a guardian, or guardians, or the clerk to the guardians of any union, shall be expressly authorized by

Note to Sect. 2.

a resolution passed at a meeting of the guardians of such union, a written or printed notice that the proposal is to be considered at that meeting having been sent, by post or otherwise, to each guardian not less than four days prior to the date of the meeting; and where the attendance of more than one guardian is authorized, the number of guardians authorized to attend shall be specified in the resolution.

(3.) The maximum number of guardians authorized to attend any conference shall be three, and in the case of the central conference held in London only one guardian shall be authorized to attend from any union which is at a distance of more than fifty miles from the place of meeting.

(4.) The number of copies which may be purchased by the guardians of any union of the report of the central conference, or of any conference for a district including the union, shall be such as the guardians of the union may, by resolution determine.

In a circular issued by the Local Government Board along with the foregoing regulations, the following, among other remarks explanatory of the regulations, may be mentioned:—

The Board have not deemed it practicable to specify the precise sum which should be allowed in respect of an attendance at a conference. The statute only admits of the expenses actually incurred being charged, and it requires that these should be reasonable. They must necessarily vary in different cases, but the Board think that in addition to the actual travelling expenses they should not exceed the following scale for each person, viz.:—

Seven shillings and sixpence per day when not absent from home at night; and

Fifteen shillings per day when absence from home at night is necessary.

With regard to the reports of poor law conferences, it will be seen that the Board have left it to the guardians to determine by resolution what number of copies they will purchase. The power of purchase extends to the reports both of the central conference and of any conference for a district including the union.

Interpretation.

3. Expressions used in this Act have the same respective meanings as they have in the Public Health Act, 1875, save and except that in England the term "local authority" shall not mean or include the urban authority of any borough.

In other words, the Act applies only to rural authorities and to urban authorities being either local boards or improvement commissioners. (See section 6 of the principal Act, p. 17.) It does not apply to a town council who are the urban authority in their borough.

Act to apply to Ireland.

4. In the application of this Act to Ireland—

(*a.*) The term "Local Government Board" shall mean the Local Government Board for Ireland:

41 & 42 Vict. c. 52.

(*b.*) The Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875:

(*c.*) The expression "local authority" shall mean rural sanitary authority and urban sanitary authority.

THE LOCAL LOANS SINKING FUNDS ACT, 1885.

(48 & 49 Vict. Cap. 30.)

An Act to amend the Local Loans Act, 1875, *as regards the establishment of a Sinking Fund.* [22nd July, 1885.]

Whereas it is expedient to amend the Local Loans Act, 1875, as regards the provision of sinking funds for the discharge of local loans: 38 & 39 Vict. c. 83.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as the Local Loans Sinking Funds Act, 1885. Short title.

2. This Act shall not extend to Scotland or Ireland. Limits of Act.

3. This Act shall come into operation on the first day of September, one thousand eight hundred and eighty-five. Commencement of Act.

4. Notwithstanding anything contained in the Local Loans Act, 1875, every loan borrowed in manner provided by that Act may be discharged by the establishment of a sinking fund as therein mentioned, notwithstanding that a sinking fund may not have been prescribed by the special Act authorizing the loan. Discharge of loans by sinking funds.

The above Act amends the Local Authorities Loans Act, 1875 (38 & 39 Vict. c. 83). Section 13 of that Act (*Lumley*, p. 819), which provides for the discharge of loans, enacts that such discharge shall be secured by one or more of certain prescribed methods. Of these methods one relates to a sinking fund, and is in these words:—"*When a sinking fund is prescribed, but not otherwise* (such discharge shall be secured), by the establishment of a sinking fund, and the application thereof in manner in this Act mentioned." The amending Act in effect repeals the words printed in italics, and enables a loan to be discharged by means of a sinking fund, although it has not been prescribed by the special Act authorizing the loan.

THE PUBLIC HEALTH (SHIPS, &c.) ACT, 1885.

(48 & 49 Vict. Cap. 35.)

An Act to amend the Public Health Act, 1875, *in relation to Ships and Port Sanitary Authorities.* [31st July, 1885.]

38 & 39 Vict. c. 55.

Whereas it is expedient to amend the provisions of the Public Health Act, 1875, relating to ships and port sanitary authorities:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Public Health (Ships, &c.) Act, 1885, and shall be construed as one with the Public Health Act, 1875, in this Act referred to as the principal Act.

Amendment of section 110 of the Public Health Act, 1875.

2. Section one hundred and ten of the principal Act shall have effect not only for the purpose of the provisions of that Act relating to nuisances, but also for the purpose of such of the provisions of that Act relating to infectious diseases and hospitals as are referred to in the schedule to this Act.

Section 110, as amended, will now read as follows:—For the purposes of the provisions of this Act relating to nuisances, and also for the purpose of such of the provisions of this Act relating to infectious diseases and hospitals as are contained in sections 120, 121, &c. (see the schedule, *post*), any ship or vessel lying in any river, harbour, or other water within the district of a local authority, shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district; and any ship or vessel lying in any river, harbour, or other water not within the district of a local authority shall be deemed to be within the district of such local authority as may be prescribed by the Local Government Board, and where no local authority has been prescribed, then of the local authority whose district nearest adjoins the place where such ship or vessel is lying. The master, or other officer in charge of any such ship or vessel, shall be deemed for the purpose of the said provisions to be the occupier of such ship or vessel. This section shall not apply to any ship or vessel under the command or charge of any officer bearing Her Majesty's commission, or to any ship or vessel belonging to any foreign government. See the notes to this section, *Lumley*, p. 112.

Constitution of permanent

3. In any case in which the Local Government Board are by the principal Act authorized permanently to constitute a port

sanitary authority by provisional order, they may permanently constitute a port sanitary authority by order (*a*).

Every order made under this section shall specify a day on which it shall come into operation in the event of its not becoming a provisional order, as hereinafter provided, and at least four weeks before such day a copy of it shall be sent by the Local Governmen Board to every riparian authority (*b*) which is by the order or otherwise required to contribute to the expenses of the port sanitary authority (*c*), and if before such day notice in writing shall be received by the Local Government Board from any such riparian authority objecting to the order, and such notice is not withdrawn before such day, the order shall be deemed to be a provisional order (*d*) duly made by the Local Government Board under the principal Act, and in the event of its being confirmed by Parliament shall come into operation on such day as may be provided in that behalf in the Act confirming it.

Any order made under this section may, if the same has not become a provisional order, be repealed, altered, or amended by any subsequent order made by the Local Government Board.

(*a*) Section 287 of the principal Act enabled the Local Government Board by provisional order permanently to constitute any local authority whose district or part of whose district forms part of or abuts on any part of a port in England, or the waters of such port, or any conservators, commissioners, or other persons having authority in or over such port or any part thereof (which local authority, conservators, commissioners, or other persons are in the Act referred to as a "riparian authority"), the sanitary authority of the whole of such port or of any part thereof (in the Act referred to as the "port sanitary authority"). The Local Government Board were also empowered by provisional order permanently to constitute a port sanitary authority for the whole or any part of a port, by combining any two or more riparian authorities having jurisdiction within such port, or any part thereof, and to prescribe their joint action; or by forming a joint board consisting of representative members of any two or more riparian authorities in the same manner as is by the Act provided with respect to the formation of a united district. And the Board were further empowered by provisional order permanently to constitute a port sanitary authority for any two or more ports, by forming a joint board consisting of representative members of all or any of the riparian authorities having jurisdiction within such ports or any part thereof. (See the section, *Lumley*, p. 339.)

The effect of the above amendment is to abolish the necessity for a provisional order in the foregoing cases, and to enable the Board in each of the cases to permanently constitute a port sanitary authority by an order which will require no confirmation by Parliament. The orders made by the Board will be binding and conclusive (section 295, p. 345).

(*b*) See the definition of a riparian authority in section 287, *supra.*

(*c*) As to the expenses of a port sanitary authority and the mode in which contributions are obtained from the several riparian authorities, see section 290 (p. 341).

(*d*) In other words, section 287 will apply as it originally stood, and the Local Government Board may then make an order temporarily constituting the port sanitary authority pending the confirmation of the provisional order. As to the making of provisional orders, see section 297, p. 347.

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SCHEDULE.

Sections 120, 121, 124, 125, 126, 128, 131, 132, and 133 of the Public Health Act, 1875.

The following are the words of the above sections as applied by this Act:—

Section 120 (p. 123). Where any local authority are of opinion, on the certificate of their medical officer of health or of any other legally qualified medical practitioner, that the cleansing and disinfecting of any *ship* or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such authority to give notice in writing to the *master or other officer in charge* of such *ship* or part thereof, requiring him to cleanse and disinfect such *ship* or part thereof and articles within a time specified in such notice. If the person to whom notice is so given fails to comply therewith, he shall be liable to a penalty of not less than one shilling, and not exceeding ten shillings, for every day during which he continues to make default; and the local authority shall cause such *ship* or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the *master or other officer in charge of such ship* in default in a summary manner. Where the *master or other officer in charge of such ship* or part thereof is from poverty or otherwise unable, in the opinion of the local authority, effectually to carry out the requirements of this section, such authority may, without enforcing such requirements on such *master or other officer*, with his consent, cleanse and disinfect such *ship* or part thereof and articles, and defray the expense thereof.

Section 121 (p. 124). Any local authority may direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any dangerous infectious disorder, and may give compensation for the same.

Section 124 (p. 124). When any suitable hospital or place for the reception of the sick is provided within the district of a local authority, or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder, and is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by order of any justice to such hospital or place at the cost of the local authority. An order under this section may be addressed to such constable or officer of the local authority as the justice making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds.

It will be seen that this section already applied to ships, but the new Act makes clear what authorities may act under it. (See section 2, *ante*.)

Section 125 (p. 125). Any local authority may make regulations (to be approved by the Local Government Board) for removing to any hospital to which such authority are entitled to remove patients, and for keeping in such hospital as long as may be necessary, any person brought within their district by any ship or boat who are infected with a dangerous infectious disorder, and such regulations may impose on offenders against the same reasonable penalties not exceeding forty shillings for each offence.

See the remarks on section 124, *supra*.

Section 126 (p. 126). Any person who—

(1.) While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering; or,

(2.) Being in charge of any person so suffering, so exposes such sufferer; or,

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(3.) Gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder,

shall be liable to a penalty not exceeding five pounds; and a person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance. Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having the same disinfected.

The application of this section to ships is not clear. It does not appear to have any bearing upon persons or things in ships beyond what it had before the Act.

Section 128 (p. 127). Any person who knowingly lets for hire any *ship* or part of a *ship* in which any person has been suffering from any dangerous infectious disorder, without having such *ship* or part of a *ship* and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds.

Section 131 (p. 129). Any local authority may provide for the use of the inhabitants of their district hospitals or temporary places for the receptiou of the sick, and for that purpose may—

Themselves build such hospitals or places of reception; or contract for the use of any such hospital or part of a hospital or place of reception; or

Enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on.

Two or more hospital authorities may combine in providing a common hospital.

Section 132 (p. 130). Any expenses incurred by a local authority in maintaining in a hospital, or in a temporary place for the reception of the sick (whether or not belonging to such authority), a patient who is not a pauper, shall be deemed to be a debt due from such patient to the local authority, and may be recovered from him at any time within six months after his discharge from such hospital or place of reception, or from his estate in the event of his dying in such hospital or place.

Section 133 (p. 131). Any local authority may, with the sanction of the Local Government Board, themselves provide or contract with any person to provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district.

THE PUBLIC HEALTH (MEMBERS AND OFFICERS) ACT, 1885.

(48 & 49 Vict. Cap. 53.)

An Act to amend the Public Health Act, 1875, *with respect to the Members and Officers of Local Authorities.*

[6th August, 1885.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Short title. 38 & 39 Vict. c. 55.

1. This Act may be cited as the Public Health (Members and Officers) Act, 1885, and shall be construed as one with the Public Health Act, 1875, in this Act called the principal Act.

Amendment of section 193 of the Public Health Act, 1875.

2. Notwithstanding anything in the hundred and ninety-third section of the principal Act (*a*), or any similar restrictions in any local Act, to the contrary, it shall not be unlawful for any officer or servant appointed or employed under the principal Act or local Act by the local authority to be concerned or interested in any contract with the local authority made with such consent or approval as is hereinafter mentioned for the sale, purchase, leasing, or hiring of any lands, rooms, or offices (*b*), or to be concerned or interested in any contract with the local authority as a shareholder in any joint stock company (*c*), and no officer or servant of a local authority shall be incapable of holding any office or of being employed under the principal Act or local Act, or be liable to any penalty by reason only of his having been concerned or interested either before (*d*) or after the passing of this Act in any such contract as aforesaid. No such contract as aforesaid shall be made after the passing of this Act, or approved if made before the passing of this Act, for the sale, purchase, leasing, or hiring of any lands, rooms, or offices except with the consent of two-thirds of

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the number of the members of the local authority present (*e*) at a meeting held after seven clear days' notice shall have been published in some newspaper circulating in the neighbourhood, and after notice shall have been sent in writing to every member stating the nature of the contract, and the time and place of the meeting at which the question is to be considered (*f*).

(*a*) Section 193 (p. 224), prohibited officers or servants appointed under the Public Health Act, 1875, from being in anywise concerned or interested in any bargain or contract made with such authority for any of the purposes of the Act. If any officer or servant was so concerned or interested, he was to be incapable of afterwards holding or continuing in any office or employment under the Act, and was to forfeit and pay the sum of 50*l*., which might be recovered by any person, with full costs of suit, by action of debt. In *Fletcher* v. *Hudson*, 5 Ex. D. 287; 49 L. J. Ex. 793; 43 L. T. (N.S.) 404; 45 J. P. 5, it was laid down by BRAMWELL, B., that the penalty under section 193 might be recovered by any person, although he was neither a party aggrieved nor had the consent of the Attorney-General under section 253 (p. 292). To meet this decision the 47 & 48 Vict. c. 74, s. 2 (p. 470), provided that proceedings for the recovery of any penalty under section 193 should not be taken without the consent in writing of the Attorney-General. In other respects, however, section 193 remained in full force. In *Todd* v. *Robinson*, 14 Q. B. D. 739; 54 L. J. Q. B. 47; 52 L. T. (N.S.) 120; 49 J. P. 278; it was held that an officer of a local board, who was a shareholder in a gas company, having a contract with the board for the lighting of the streets, was, so long as the contract existed, interested in a bargain or contract with the board within the meaning of section 193, and if the contract was capable of producing any profit to the shareholders of the company, he was liable to the penalty imposed by that enactment. In another case, also decided by the Court of Appeal (*Burgess* v. *Clark*, 14 Q. B. D. 735; 33 W. R. 269; 49 J. P. 388), it was held that a demise of rooms was a bargain or contract within the meaning of section 193, and that if an officer, employed by a local board, let rooms to the board at a rent payable to him, although the rooms were used by the board in the transaction of its business, he became liable to the penalty; for the rent could not be considered as an *allowance* in addition to his salary under sections 189, 193, being unconnected with the performance of any services in the course of his employment under the board. It was to meet these and similar cases that the present statute has been passed. It is to be remembered that the decision in *Todd* v. *Robinson*, 12 Q. B. D. 530; 53 L. J. Q. B. 251; 50 L. T. (N.S.) 298; 32 W. R. 858; 48 J. P. 692, remains unaffected by this Act. It decides that when any penalty is recovered under the section the Crown cannot remit the penalties under 22 Vict. c. 32, as that Act relates only to persons upon whom a penalty was imposed by judicial authority.

(*b*) This meets the case of *Burgess* v. *Clark*, *supra*.

(*c*) This meets the case of *Todd* v. *Robinson* (No. 1), *supra*. The words "joint stock company" will apparently apply to every joint stock company, however formed. (See note (*h*), *Lumley*, p. 413.)

(*d*) The effect of this provision is to remove any liability or disqualification existing before the time of the passing of the Act by reason of an officer's having entered into a contract of the kind mentioned in the section.

(*e*) The necessary majority is two-thirds of those present (not of the whole board), whether voting or not.

(*f*) The question of such a contract will in general arise at an ordinary meeting. In such a case the consideration of the question should be postponed until a day named, and the clerk should be instructed to insert the necessary advertisement, and to send a notice to every member stating the nature of the contract, &c. As to the sending of the notice, see section 267, *Lumley*, p. 314.

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Restriction on recovery of penalties.

3. Proceedings for the recovery of any penalty under Rule 70 of Schedule II. to the principal Act shall not be taken except with the consent in writing of the Attorney-General.

Rule 70 here referred to (p. 417), enabled a common informer to sue for the penalty of 50*l.* imposed on the member of a local board for acting when disqualified. See per BRAMWELL, B., in *Fletcher* v. *Hudson*, *ante*, p. 9. The consent in writing of the Attorney-General will now be necessary. The discretion of that officer as to granting his consent is unqualified. See *Ex parte Hubert*, 47 J. P. 724; 15 Cox C. C. 166.

Removal of disqualification.

4. No member of any local authority shall vacate his office by reason only of his having any share or interest in any newspaper in which any advertisement is inserted relating to the affairs of such local authority, or of the district subject to the jurisdiction of such local authority, anything in any general or local Act of Parliament to the contrary notwithstanding (*a*).

For the purposes of this section the expression "local authority" means any "local board" or "improvement commissioners" as defined by the principal Act (*b*).

(*a*) This merely adds another proviso to Schedule II., Rule 64 (p. 411). The amendment of the law is a useful one, and it seems strange that the benefit was not extended to officers who are frequently part proprietors of local journals.

(*b*) In other words, the section applies to all urban authorities except town councils of boroughs. A similar provision as to town councillors is to be found in the Municipal Corporations Act, 1882, s. 12. It is to be observed that while Schedule II., Rule 64, applies only to "local boards," this section applies also to "improvement commissioners." See the definition of these terms, section 4 (pp. 3, 4).

HOUSING OF THE WORKING CLASSES ACT, 1885.

(48 & 49 Vict. Cap. 72.)

An Act to amend the Law relating to Dwellings of the Working Classes. [14th August, 1885.]

Whereas it is expedient to amend the law with reference to the provision of suitable dwellings for the working classes:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spriritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Labouring Classes Lodging Houses.

1. (1.) The Labouring Classes Lodging Houses Acts, 1851 to 1867 (*a*), may be adopted— Adoption of Labouring Classes Lodging Houses Acts.

(*a.*) For the City of London by the Commissioners of Sewers of the City of London;

(*b.*) For the metropolis, exclusive of the City of London, by the Metropolitan Board of Works if one of Her Majesty's principal Secretaries of State approves of such adoption (*b*);

(*c.*) For any urban sanitary district by the urban sanitary authority (*c*) of such district in accordance with section ten of the Public Health Act, 1875 (*d*); and 38 & 39 Vict. c. 55.

(*d.*) For any rural sanitary district, by the sanitary authority of the district (*e*) upon such certificate published by the Local Government Board, and after such delay as hereinafter mentioned.

(2.) A rural sanitary authority in any district desiring to adopt the said Acts may apply to the Local Government Board for the certificate required for such adoption, and shall specify in such application the area in which they consider that accommodation is necessary for the housing of the labouring classes (*f*), and thereupon the Local Government Board shall direct a local inquiry to be

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held by one of their inspectors (*g*); and if after such local inquiry the inspector shall certify that accommodation is necessary in such area for the housing of the labouring classes, and that there is no probability that such accommodation will be provided without the execution of the said Acts, and that having regard to the liability which will be incurred by the rates, it is under all the circumstances prudent (*h*) for the said authority to undertake the provision of the said accommodation under the powers of the said Acts, the Local Government Board may if they think fit publish that certificate in the *London Gazette*, and thereupon (*i*) the sanitary authority may adopt the said Acts: Provided that—

(*a.*) Unless the Local Government Board state in publishing such certificate that, by reason of the date of the next ordinary election of members of such authority or otherwise, an emergency renders it necessary to adopt the Acts immediately, such adoption in pursuance of the certificate shall not take place before the ordinary election of members of such authority which is held next after the date of the local inquiry (*k*); and

(*b.*) After the end of twelve months from the date of the certificate the Acts shall not be adopted without a fresh certificate (*l*); and

(*c.*) No land shall be acquired, nor buildings erected under the said Acts outside (*m*) of the area mentioned in the certificate, except after a fresh application, inquiry, and certificate.

(3.) Where the rural sanitary authority think it just that the burden of the expenses of the execution of the said Acts should be borne by some contributory place or places (*n*) only in their district, instead of by the whole of their district, the authority may in their application to the Local Government Board request permission to limit the burden of such expenses to such contributory place or places, and thereupon the justice of such limitation shall be inquired into at the local inquiry, and the Local Government Board, if satisfied after the local inquiry that the circumstances of the contributory place or places and of the rest of the district render such limitation just, may make an order (*o*) to that effect, and thereupon the expenses of the execution of the said Acts in the area mentioned in the order shall be borne by the contributory place or places named in the order instead of by the whole district. The provisions of this enactment with respect to the burden of

the expenses shall apply upon every application for a fresh certificate (*p*).

(4.) When the Labouring Classes Lodging Houses Acts, 1851 to 1867, have been adopted by the Metropolitan Board of Works, or by any sanitary authority (*q*), or by the Commissioners of Sewers of the City of London, then—

(*a.*) Such board or authority or Commissioners shall have power to carry the said Acts into execution within the area for which they are adopted, subject in the case of a rural sanitary authority to the foregoing provisions with respect to rural sanitary authorities, and for that purpose may exercise the same powers whether of contract or otherwise as in the execution of their duties under the Metropolis Management Act, 1855, and the Acts amending the same, or under the Public Health Act, 1875 (*r*), or under the Acts conferring powers on such Commissioners of Sewers respectively; 18 & 19 Vict. c. 120. 38 & 39 Vict. c. 55.

(*b.*) All expenses incurred by such board or authority in the execution of the said Acts shall be defrayed—

(i.) In the case of the Metropolitan Board of Works, out of the Dwelling House Improvement Fund under the Artizans and Labourers Dwellings Improvement Act, 1875;

(ii.) In the case of an urban sanitary authority, as part of the general expenses of their execution of the Public Health Act, 1875 (*s*); and

(iii.) In the case of a rural sanitary authority, as special expenses incurred in the execution of the Public Health Act, 1875 (*t*), and, save where the burden of such expenses is by order of the Local Government Board to be borne by one contributory place only (*u*), shall be deemed to be incurred for the common benefit of all the contributory places liable to bear such expenses: Provided that if on the application of the rural sanitary authority it is so declared at the time of the publication of the certificate by the Local Government Board (*v*), then the said expenses of the rural sanitary authority shall be defrayed as general expenses of the said authority in the execution of the Public Health Act, 1875 (*w*),

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and if such expenses are not to be borne by the whole of the district, shall be charged to the contributory places which are to bear the same as an addition to the general expenses otherwise chargeable thereto;

(iv.) In the case of the City of London, out of the Dwelling House Improvement Fund under the Artizans and Labourers Dwellings Improvement Act, 1875;

(*c.*) All receipts under the said Acts shall be paid to the fund out of which such expenses are payable (*x*), and the accounts of such receipts and expenses shall be audited in like manner and with the like incidents and consequences respectively as the accounts of the general or special expenses above mentioned (*y*); but separate accounts shall be kept of the receipts and expenditure for the purposes of the said Acts;

(*d.*) Such board and commissioners may borrow for the purpose of the execution of the said Acts, in like manner and subject to the like conditions as they may borrow for the purposes of the Artizans and Labourers Dwellings Improvement Act, 1875, and every such authority may borrow for the purpose of the execution of the said Acts in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general or special expenses (*z*);

(*e.*) In the application of the said Acts to the City of London, "district" shall mean the City of London, and "board" the Commissioners of Sewers of that city; and in the application of the said Acts to the metropolis, "district" shall mean the metropolis exclusive of the City of London, and "board" the Metropolitan Board of Works; and in the application of the said Acts to a rural sanitary district, "district" shall mean the said district, and "board" the rural sanitary authority. In any case where an urban sanitary authority does not levy a borough rate or any general district rate, but is empowered by a local Act or Acts to borrow money and to levy a rate or rates throughout the whole of their district for purposes similar to those or to some of those for which a general district rate is leviable, it shall be lawful for such sani-

tary authority to defray the expenses incurred in the execution of the said Acts by means of money to be borrowed, and a rate or rates to be levied, under such local Act or Acts. Sect. 1.

(*a*) These Acts are the 14 & 15 Vict. c. 34; 29 & 30 Vict. c. 28; and 30 & 31 Vict. c. 28. They are set out as an Appendix to this Act in so far as they are unrepealed.

(*b*) As the present work is intended only as a supplement to the 2nd Edition of "Lumley's Public Health Acts," and as that work does not relate to the metropolis, it is not proposed in annotating this Act to deal at length with the application of the Act to the City of London or the metropolis.

(*c*) For an explanation of the terms "urban sanitary district" and "urban sanitary authority," see section 6 of the Public Health Act, 1875 (*Lumley*, p. 17).

(*d*) Section 10 (p. 23), provides that where the Labouring Classes Lodging Houses Acts are in force within the district of any urban authority, such authority shall have all powers, rights, duties, capacities, liabilities and obligations in relation to such Acts exerciseable by or attaching to the council, incorporated commissioners, local board, improvement commissioners, and other commissioners or persons acting in the execution of the said Acts, or any of them; and that where the Acts are not in force within the district of any urban authority, such authority may adopt such Acts. Nothing is necessary, apparently, for the adoption of the Acts except the resolution of the urban authority to that effect, for the provisions of the 14 & 15 Vict. c. 54, as to adoption by local boards and improvement commissioners are repealed. The consent of the ratepayers is not now necessary; nor can the ratepayers now interfere to prevent or delay the adoption of the Acts. It is to be observed, however, that it is optional for the urban authority to adopt the acts or not; unless, indeed, section 7 of this Act, *post*, supplies the means of compelling the sanitary authority to adopt the Acts.

(*e*) For the definition of a rural sanitary district, see section 9 (*Lumley*, p. 20). The guardians of the union are the rural sanitary authority.

(*f*) No particular form is required for this application. All that need be stated is the desire of the rural authority to adopt the Acts in a certain specified area. They may also request permission to limit the burden of the expenses to one or more contributory places.

(*g*) See section 10, sub-section (3), *post*, as to this inquiry.

(*h*) This is a singular expression. Apparently this prudence is to be exercised to prevent any serious increase to the rates.

(*i*) That is, after the date of the publication of the certificate in the *Gazette*, subject, however, to the provisoes following.

(*k*) The effect of this proviso is as follows. The election of guardians occurs in the months of March and April in each year. In order that the ratepayers may have a voice in determining whether the Acts should be adopted, the guardians cannot in general adopt the Acts until after the election next after the date of the publication of the certificate in the *Gazette*. But if this would involve a long delay, or if for any other reason the Local Government Board think the Acts should be adopted at once, they may insert a statement to that effect in the certificate, and thereupon the rural authority may forthwith adopt the Acts without waiting for the election.

(*l*) It is to be observed that, so far as this section is concerned, the adoption of the Acts is optional with the authority (but see *ante*, note (*d*), and section 7 of this Act, *post*.) They need not adopt them even after the Local Government Board have published their certificate; but if they do not adopt the Acts for a year they must apply again *de novo* for another certificate.

(*m*) The power to acquire land or erect buildings must therefore be exercised only within the area mentioned in the certificate.

(*n*) As to what are contributory places, see section 229 (*Lumley*, p. 264).

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(*o*) This order is distinct from the certificate, and will presumably take effect if the Acts are adopted. Apparently the order need not be made at the same time as the certificate, but probably it will in practice be made at the same time. The order will be binding and conclusive, and may be published as the board may direct. See section 295 (*Lumley*, p. 345).

(*p*) A fresh certificate will be necessary under sub-sections (2), (*b*) and (*c*), *supra*.

(*q*) That is, by any urban or any rural sanitary authority. See section 13 of this Act, *post*.

(*r*) Therefore the powers of contracting for the purposes of the Act are those conferred by the Public Health Act, 1875, ss. 173, 174 (pp. 199—203). And the authority will be able to purchase lands under section 175, *et seq.* (p. 203), and to appoint necessary officers under section 189, &c., p. 218.

(*s*) That is, out of the general district fund and general district rate (section 207, p. 233).

(*t*) See section 229, p. 264. Special expenses are levied by a separate poor rate under section 230, p. 266.

(*u*) See sub-section (3), *supra*.

(*v*) See sub-section (2). Note that this declaration must be made when the certificate is published. Apparently it cannot be done afterwards like the order made under sub-section (3).

(*w*) See section 229, p. 263. General expenses are payable out of the poor rates under section 230, p. 266.

(*x*) That is, to the general district fund, to the fund above declared to be for the common benefit of contributory places, or to the common fund out of which the general expenses are payable.

(*y*) See sections 245, 250, pp. 281—288.

(*z*) These borrowing powers will be found in sections 233—244, pp. 270, 280.

Definition of purposes of Labouring Classes Lodging Houses Acts.

2. (1.) The expression "lodging-houses for the labouring classes" when used in the Labouring Classes Lodging Houses Acts, 1851 to 1867, shall be deemed to include separate houses or cottages for the labouring classes, whether containing one or several tenements, and the purposes of the said Act shall be deemed to include the provision of such houses and cottages (*a*).

(2.) Land for the purposes of the said Acts as amended by this Act may be acquired by the Metropolitan Board of Works, by the Commissioners of Sewers of the City of London, and by any sanitary authority in like manner as if those purposes were purposes of the Public Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight, both inclusive, of that Act (relating to the purchase of land), shall apply accordingly (*b*), and shall for the purposes of this Act extend to the metropolis in like manner as if the Commissioners of Sewers and Metropolitan Board of Works respectively were a local authority in the said sections mentioned, and one of Her Majesty's principal Secretaries of State were substituted for the Local Government Board.

(*a*) The term "lodging-houses" is misleading by reason of this provision. The power to provide "lodging-houses," includes the power to provide separate

houses and cottages, *and to furnish them.* (See 14 & 15 Vict. c. 34, s. 36, *post.*) The word "cottage" may also include a garden not exceeding half an acre, the value of which does not exceed 3*l.* by the year. (See section 13 of this Act, *post.*) Note to Sect. 2.

(*b*) See these sections, "Lumley's Public Health," pp. 203—9.

Provision respecting sites of certain metropolitan prisons.

3. In the event of the removal from their present sites of Millbank Penitentiary or Pentonville Penitentiary, it shall be lawful for Her Majesty, on the recommendation of the Commissioners of Her Majesty's Treasury, and subject to such conditions as they may think reasonable, and in the event of the removal from its present site of Coldbath Fields Prison, or House of Detention, Clerkenwell, it shall be lawful for the justices of the peace for the county of Middlesex, if the justices think fit so to do, to sell and convey those respective sites or any part or parts thereof to the Metropolitan Board of Works, at a fair market price.

Amendment of Artizans Dwellings Acts.

Amendment of 31 & 32 Vict. c. 130.

4. The owner of any premises who is required by an order of a local authority made under the Artizans and Labourers Dwellings Act, 1868, to execute any works on or to demolish any premises, shall cease to have the power to require the local authority to purchase such premises.

The 42 & 43 Vict. c. 64, ss. 3, 4, provided that the owner of premises who was ordered to execute any works or to demolish such premises might require the local authority to purchase them, the purchase-money, if not agreed upon, to be settled by arbitration. This power is now taken away, and the two sections are repealed by this Act.

Amendment of Artizans and Labourers Dwellings Improvement Acts.

Amendment of 38 & 39 Vict. c. 36, s. 8, and schedule; 42 & 43 Vict. c. 63; 45 & 46 Vict. c. 54, schedule.

5. (1.) The Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, shall extend to all urban sanitary districts (*a*).

(2.) In either of the following cases:

(*a*.) Where an officer of health has reported to any local authority in the metropolis, exclusive of the City of London, either in pursuance of the Artizans and Labourers Dwellings Act, 1868 (*b*), that any premises are in a condition or state dangerous to health, so as to be unfit for human habitation, or in pursuance of section eight of the Artizans Dwellings Act, 1882 (*c*), that the pulling down of any obstructive buildings

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would be expedient, and such authority resolve that the case of such premises or buildings is of such general importance to the metropolis that it should be dealt with by a scheme under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882 (*d*); or

(*b.*) Where any such official representation as mentioned in section three of the Artizans and Labourers Dwellings Improvement Act, 1875 (*e*), has been made to the Metropolitan Board of Works in relation to any houses, courts, or alleys within a certain area, and the Metropolitan Board of Works resolve that the case of such houses, courts, or alleys is not of general importance to the metropolis, and should be dealt with under the Artizans Dwellings Acts, 1868 to 1882 (*f*):

such local authority or board may submit such resolution to one of Her Majesty's principal Secretaries of State, and thereupon the Secretary of State may appoint an arbitrator, and direct him to hold a local inquiry, and such arbitrator shall hold such inquiry, and report to the Secretary of State as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of section three of the Artizans and Labourers Dwellings Improvement Act, 1875 (*e*), the case is either wholly or partially of any and what importance to the metropolis at large, with power to such arbitrator to report that in the event of the case being dealt with under the Artizans Dwellings Acts, 1868 to 1882 (*f*), the Metropolitan Board of Works ought to make a contribution in respect of the expense of dealing with the case. The Secretary of State, after considering the report of the arbitrator, may, according as to him seems just, decide that the case shall be dealt with either under the Artizans Dwellings Acts, 1868 to 1882 (*f*), or under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882 (*d*), and the officer of health or other proper officer shall forthwith make the report (*g*) or official representation (*h*) necessary for proceedings in accordance with such decision.

(3.) Where an arbitrator has under the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, determined the amount of compensation, an appeal shall not lie to a jury from the decision of such arbitrator without leave of the High Court of

Justice, but such court or any judge thereof at chambers may grant such leave upon application in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted (*i*). Sect. 5.

(*a*) Formerly these Acts extended only to the metropolis and to urban sanitary districts having a population of more than 25,000.
(*b*) 31 & 32 Vict. c. 130, s. 5, *post*. This Act belongs to the second group of Acts relating to artizans' dwellings.
(*c*) 45 & 46 Vict. c. 54, s. 8, *post*. This section also belongs to the second group of Acts.
(*d*) That is, under the third group of Acts: 38 & 39 Vict. c. 36 ; 42 & 43 Vict. c. 63 ; and 45 & 46 Vict. c. 54, Part I., *post*.
(*e*) 38 & 39 Vict. c. 36, s. 3, *post*.
(*f*) That is, under the second group: 31 & 32 Vict. c. 130 ; 42 & 43 Vict. s. 64 ; 45 & 46 Vict. c. 54, Part II., *post*.
(*g*) The report under 31 & 32 Vict. c. 130, s. 5.
(*h*) The official representation under 38 & 39 Vict. c. 36, s. 3.
(*i*) See 38 & 39 Vict. c. 36, Schedule, Art. 26.

Amendment as to Interest on Public Works Loans.

6. Any loan advanced by the Public Works Loan Commissioners in pursuance of the Labouring Classes Lodging Houses Acts, 1851 to 1867, or of the Artizans Dwellings Acts, 1868 to 1882, or of the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, the Artizans and Labourer Dwellings Improvement (Scotland) Act, 1875, and any Acts amending the same, or of any of such Acts, or for labourers dwellings in pursuance of the Public Works Loans Act, 1875, shall bear such rate of interest, not less than three pounds two shillings and sixpence per cent., as the Commissioners of Her Majesty's Treasury may from time to time authorize as being in their opinion sufficient to enable such loans to be made without loss to the Exchequer. Rates of loan by Public Works Loan Commissioners.

Provided that this section shall cease to be of effect after the thirty-first day of December, one thousand eight hundred and eighty-eight.

The particular amendments effected by this section are noticed under the provisions of the several Acts, all of which are set out, *post*.

Amendment of General Sanitary Law, &c.

7. It shall be the duty of every local authority entrusted with the execution of laws relating to public health and local government to put in force from time to time, as occasion may arise, the General duty of local authority

Sect. 7. to enforce the law.

powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under the control of such authority.

It is provided by section 299 of the Public Health Act, 1875 (Lumley, p. 350), that if a local authority makes default in enforcing any of the provisions of that Act which it is their duty to enforce, the Local Government Board on complaint made may compel them to perform their duty. The present section is much wider in its operation. It applies to the execution not only of the Public Health Act, but of all laws relating to public health and local government. And as it makes such execution a statutory duty, the remedy of any person aggrieved will apparently be by *mandamus*. The only limitation of the section is that in the last clause, which seems to confine its operation to the execution of such laws as may be necessary to secure the proper sanitary condition of premises. An example of the operation of this section may be given by referring to the Public Health Act, 1875, s. 23. Under that section a local authority were originally bound to give notice to an owner to drain his house effectually; on his making default they were empowerd (not bound) to execute the necessary works themselves. Now, apparently, by reason of the provision in the text, they have no option, but must execute the necessary works. Similar examples will readily occur to readers of the Public Health Act.

Amendment of 38 & 39 Vict. c. 55, s. 90.

8. Whereas under section ninety of the Public Health Act, 1875, the Local Government Board can declare that section to be in force within the district of a sanitary authority, and after the publication of notice of such declaration such authority is empowered to make bye-laws with respect to lodging-houses, and it is expedient to authorize every such authority to make such bye-laws without any declaration by the Local Government Board: Be it therefore enacted as follows:

Every sanitary authority shall have power to make bye-laws for the matters specified in section ninety of the Public Health Act, 1875.

Section 90 of the Public Health Act enabled the Local Government Board to empower a local authority to make bye-laws as to houses let in lodgings, *i.e.*, houses other than common lodging-houses. The powers given by that section may now be exercised by any local authority without the intervention of the Local Government Board.

Tents and vans used for human habitation.

9. (1.) A tent, van, shed, or similar structure used for human habitation, which is in such a state as to be a nuisance or injurious to health (*a*), or which is so overcrowded as to be injurious to the health of the inmates, whether or not members of the same family, shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875; and the provisions of that Act shall apply accordingly (*b*).

(2.) A sanitary authority may make bye-laws (*c*) for promoting cleanliness in, and the habitable condition of tents, vans, sheds,

and similar structures used for human habitation, and for preventing the spread of infectious disease by the persons inhabiting the same, and generally for the prevention of nuisances in connection with the same (*d*). Sect. 9.

(3.) Where any person duly authorized by a sanitary authority or by a justice of the peace (*e*) has reasonable cause to suppose either that there is any contravention of the provisions of this Act, or any bye-law made under this Act, in any tent, van, shed, or similar structure used for human habitation, or that there is in any such tent, van, shed, or structure any person suffering from a dangerous infectious disorder (*f*), he may, on producing (if demanded) either a copy of his authorization purporting to be certified by the clerk or a member of the sanitary authority or some other sufficient evidence (*g*) of his being authorized as aforesaid, enter by day (*h*) such tent, van, shed, or structure, and examine the same and every part thereof in order to ascertain whether in such tent, van, shed, or structure there is any contravention of any such bye-law or a person suffering from a dangerous infectious disorder (*f*).

(4.) For the purposes of this section "day" means the period between six o'clock in the morning and the succeeding nine o'clock in the evening.

(5.) If such person is obstructed in the performance of his duty under this section, the person so obstructing shall be liable, on summary conviction, to a fine not exceeding forty shillings.

(6.) This section shall apply to the metropolis, with the substitution of section nineteen of the Sanitary Act, 1866, for section ninety-one of the Public Health Act, 1875, and of nuisance authority, under the Nuisance Removal Acts, for sanitary authority. 29 & 30 Vict. c. 90.

(7.) Nothing in this section shall apply to any tent, van, shed, or structure erected or used by any portion of Her Majesty's military or naval forces.

(*a*) It is not necessary that a nuisance, in order to be within this section, should *also* be injurious to health. See the note to the corresponding words in section 91 of the Public Health Act, 1875 (Lumley, p. 93), and the case of *The Bishop Auckland Local Board* v. *The Bishop Auckland Iron Company*, 10 Q. B. D. 138; 52 L. J. M. C. 38; 48 L. T. (N.S.) 223; 31 W. R. 288; 47 J. P. 389.

(*b*) This is one of the most useful provisions of the whole Act. It enables local authorities to control a class of persons hitherto incapable of being reached through the sanitary laws. The effect of the sub-section is as follows: It is now the duty of the local authority to inspect the district for the detection of the nuisances to which the section relates (Public Health Act, 1875, s. 92). Information of a nuisance under the sub-section may be given by any person aggrieved, or by two inhabitant householders, by an officer of the local

Note to Sect. 9.

authority, by the relieving officer, by any constable or police officer (section 93). The local authority must then serve a notice for the abatement of the nuisance on the occupier of the tent, van, &c., for there will rarely be an owner distinct from the occupier (section 94). On non-compliance with the notice complaint may be made to a justice (section 95), and an order may be made by a court of summary jurisdiction (section 96). It may be doubted whether a tent, van, &c., is a house or building within section 97.

(*c*) The making, authentication, &c., of these bye-laws is regulated by sections 182-87 of the Public Health Act, 1875. The provision of section 185 as to the printing and publication of bye-laws should be attended to. See the next section.

(*d*) Up to the time of writing the Local Government Board had not yet issued model bye-laws under this section. No doubt they will do so, however, and when they do, local authorities will do well to adopt the bye-laws without greater modification than may be absolutely necessary.

(*e*) Sanitary authorities may give a general authority to their officers or a special authority to any other person. A justice may also give a special authority; probably he will do so on application similar to an information.

(*f*) Note that all infectious diseases are not dangerous. The text refers to diseases such as small-pox or the like.

(*g*) If the authority is given by a justice it should be in writing, and the original should be produced.

(*h*) That is, between 6 a.m. and 9 p.m. See sub-section (4).

Application of certain provisions as to bye-laws and local inquiries.

10. (1.) With respect to bye-laws authorized by this Act (*a*) or by the Labouring Classes Lodging Houses Act, 1851 (*b*), to be made—

(*a.*) Sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, where such bye-laws are made by the Metropolitan Board of Works, or any nuisance authority in the metropolis; and

(*b.*) The provisions of the Public Health Act, 1875, relating to bye-laws, where such bye-laws are made by a sanitary authority (*c*),

shall apply to such bye-laws, and a fine or penalty under any such bye-law may be recovered on summary conviction.

(2.) For the purposes of the execution of their duties under this Act the Local Government Board may hold such local inquiries as the Board see fit, and sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, relating to inquiries by such Board shall apply (*d*).

(*a*) See the last section.

(*b*) See 14 & 15 Vict. c. 34, s. 36, *post*.

(*c*) These provisions are contained in sections 182-87 (Lumley, pp. 215-18). *Quære*, whether this penalty is recoverable under the Public Health Act, 1875, or under the general provisions of the Summary Jurisdiction Acts.

(*d*) See these sections (Lumley, pp. 345-47). They give the Local Government Board power to direct inquiries, to make orders as to costs, and give extensive powers to the inspectors holding such inquiries as to the production of documents, the examination of witnesses, &c.

11. (1.) The Settled Land Act, 1882, shall be amended as follows:— Sect. 11.

Amendment of 45 & 46 Vict. c. 38, as regards erection of buildings for working classes.

(*a*.) Any sale, exchange, or lease of land in pursuance of the said Act, when made for the purpose of the erection on such land of dwellings for the working classes, may be made at such price, or for such consideration, or for such rent, as having regard to the said purpose, and to all the circumstances of the case, is the best that can be reasonably obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose (*a*).

(*b*.) The improvements on which capital money may be expended, enumerated in section twenty-five of the said Act, and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artizans, whether employed on the settled land or not, include any dwellings available for the working classes, the building of which, in the opinion of the Court, is not injurious to the estate (*b*).

(2.) Any body corporate (*c*) holding land may sell, exchange, or lease such land for the purpose of the erection of dwellings for the working classes at such price, or for such consideration, or for such rent as, having regard to the said purpose and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose.

(*a*) The Settled Land Act, 1882, s. 3, enabled a tenant for life to sell or exchange any settled land. Every sale, however, had to be made at the best price that could reasonably be obtained, and every exchange for the best consideration in land or in land and money that could reasonably be obtained (section 4). By section 6 a tenant for life was empowered to make building leases for ninety-nine years, mining leases for sixty years, and other leases for twenty-one years. By section 7, such leases were to reserve the best rent that could reasonably be obtained, regard being had to any fine taken and to any money laid out or to be laid out for the benefit of the settled land, and generally to the circumstances of the case. The text relaxes these requirements in the case of sales, exchanges, and leases by tenants for life when the lands which are the subject of such sale, &c., are sold, exchanged, or leased for the purposes of the Act. In such cases it is not the best price or rent which could be obtained, but the best price or rent which could be obtained having regard to the object of the sale, &c., which must be secured by the tenant for life.

(*b*) The Settled Land Act, 1882, s. 25, contains a long list of improvements authorized to be made by the Act, and to be paid for out of the capital money arising out of the sale of land under the Act, &c. Of these improvements

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No. X. consists of "cottages for labourers, farm servants, and artizans employed on the settled land or not." This provision is now extended as stated in the text.

(*c*) This will apply not only to a municipal corporation but also to corporate bodies capable of holding lands, such as certain colleges, hospitals, &c. Without the provision in the text these bodies, holding as they do land upon trust, could not have sold except at the best market price.

Condition to be implied on letting houses for the working classes.

12. In any contract made after the passing of this Act for letting for habitation by persons of the working classes a house or part of a house, there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation. In this section the expression "letting for habitation by persons of the working classes" means the letting for habitation of a house or part of a house at a rent not exceeding in England the sum named as the limit for the composition of rates by section three of the Poor Rate Assessment or Collection Act, 1869, and in Scotland or Ireland four pounds.

32 & 33 Vict. c. 41.

The general rule of law is that there is no implied covenant by the lessor of a house that it is reasonably fit for habitation. *Hart* v. *Windsor*, 12 M. & W. 68; *Sutton* v. *Temple*, *id.* 52; *Keates* v. *Earl Cadogan*, 10 C. P. 591; *Murray* v. *Mace*, 8 L. R. Ir. 396. See also *Chester* v. *Powell*, 52 L. T. (N.S.) 722. But this rule does not apply to a furnished house. It is an implied condition in the letting of a furnished house that it is reasonably fit for habitation; if it be not, *e.g.*, if it is greatly infested with bugs, the tenant may quit without notice, and an action will not be for use and occupation. *Smith* v. *Marrable*, 11 M. & W. 5; *Campbell* v. *Lord Wenlock*, 4 F. & F. 717. The defendant agreed to rent the plaintiff's furnished house for a term of three months from the 7th May, but having at the beginning of the intended tenancy discovered that the house was, owing to defective drainage, unfit for habitation, refused to occupy. The plaintiff repaired the drains, and on the 26th May tendered the house in a wholesome condition to the defendant, who refused to occupy or to pay any rent. The plaintiff having sued for the rent and for use and occupation, it was held that the state of the house at the beginning of the intended tenancy entitled the defendant to rescind the contract, and that he was not liable for the rent or for use and occupation. *Wilson* v. *Finch Hatton*, 2 Ex. D. 336; 46 L. J. Ex. 489; 36 L. T. (N.S.) 473; 25 W. R. 537; 41 J. P. 583. One who has agreed to take a furnished house is not bound to fulfil his contract if the house be infected with measles at the date fixed for the commencement of the tenancy. If in such a case the lessor sue for rent, he must show, to entitle him to succeed, that the house was in fact in a fit state for human habitation at the date fixed for the commencement of the term, notwithstanding a previous intimation by the tenant of his intention to repudiate the contract. *Bird* v. *Lord Greville*, 1 Cab. & Ellis, N. P. Rep. 317 (FIELD, J.). But a tenant is not justified in determining a tenancy of a furnished house because during the term a portion of the plastering of the ceilings (which were cracked and fractured at the commencement of the tenancy) fell in one room, and the plastering of the ceilings in other rooms was unsound and liable to fall. On a letting of a furnished house, the implied term that it shall be fit for human habitation only applies to the condition of the premises at the commencement of the tenancy. *Maclean* v. *Currie*, *ib.* 361 (STEPHEN, J.).

It will be seen that the provision in the text makes provision for an implied contract similar to that now existing in the case of furnished houses. When the section was just introduced into Parliament it was general, and applied to all leases or lettings of dwelling-houses, irrespective of value. As it now stands, however, it applies only to houses or parts of houses let at the rents

mentioned in 32 & 33 Vict. c. 41, s. 3, viz., in the metropolis at a rent not exceeding 20*l.*, in Liverpool, 13*l.*, in Manchester and Birmingham, 10*l.*, and elsewhere, 8*l.* In Scotland or Ireland the limit is fixed by the text at 4*l.* Note to Sect. 12.

Supplemental.

13. In this Act, unless the context otherwise requires— Definitions.

The expression "sanitary district" means the district of a sanitary authority:

The expression "sanitary authority" means an urban sanitary authority or a rural sanitary authority:

The expressions "urban sanitary authority" and "rural sanitary authority" and "contributory place" have respectively the same meanings as in the Public Health Act, 1875 (*a*): 38 & 39 Vict. c. 55.

The expression "metropolis" means the parishes and places within which the Metropolitan Board of Works have for the time being power to levy the consolidated rate (*b*):

The expression "cottage" may include a garden of not more than half an acre; provided that the estimated annual value of such garden shall not exceed three pounds (*c*).

(*a*) See sections 6 and 9 of that Act.

(*b*) That is, the places mentioned in Schedule (C.) to the Metropolis Management Act, 1855, 18 & 19 Vict. c. 120 (32 & 33 Vict. c. 102, s. 25). See *Woolrych's Metropolis Management Acts*, p. 254.

(*c*) The effect of this definition has been already stated. See section 2, subsection (1), *ante*, p. 16.

14. This Act, so far as it amends the Labouring Classes Lodging Houses Act, 1851, the Labouring Classes Dwelling Houses Act, 1866, and the Labouring Classes Dwelling Houses Act, 1867 (which Acts are in this Act referred to as the Labouring Classes Lodging Houses Acts, 1851 to 1867,) shall be construed as one with those Acts, and together with those Acts may be cited as the Labouring Classes Lodging Houses Acts, 1851 to 1885. Construction of Act. 14 & 15 Vict. c. 34. 29 & 30 Vict. c. 28. 30 & 31 Vict. c. 28.

This Act, so far as it amends the Artizans Dwellings Acts, 1868 to 1882, shall be construed as one with those Acts, and together with those Acts may be cited as the Artizans Dwellings Acts, 1868 to 1885. 31 & 32 Vict. c. 130. 42 & 43 Vict. c. 64

This Act, so far as it amends the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882, shall be construed as one with those Acts, and together with those Acts may be cited as the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1885. 45 & 46 Vict. c. 54 Part II. 38 & 39 Vict. c. 36. 42 & 43 Vict. c. 63. 45 & 46 Vict. c. 54, Part I.

In Appendix A. to this work, these three groups of statutes are kept distinct. It is necessary to bear the distinction in mind, for each group differs from the

Note to Sect. 14. other two, not only in its objects but also in the body by whom it is to be administered. See the Introduction to Appendix A.

Application of Act to Ireland.

15. In the application of this Act to Ireland, the following provisions shall take effect:—

41 & 42 Vict. c. 52.

(1.) The Public Health (Ireland) Act, 1878, shall be substituted for the Public Health Act, 1875, and in particular the references in this Act to sections ten, ninety, ninety-one, and one hundred and seventy-five to one hundred and seventy-eight, both inclusive, of the Public Health Act, 1875, shall be respectively taken to be references to sections eight, one hundred, one hundred and seven, and two hundred and two to two hundred and four, both inclusive, of the Public Health (Ireland) Act, 1878, and the reference to sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, shall be taken to be a reference to sections two hundred and nine, two hundred and ten, two hundred and twelve, and two hundred and thirteen of the Public Health (Ireland) Act, 1878;

(2.) The provisions of this Act which relate exclusively to the adoption by rural sanitary authorities of the Labouring Classes Lodging Houses Acts, 1851 to 1867, shall not apply to Ireland;

(3.) The Local Government Board for Ireland shall be substituted for the Local Government Board;

(4.) The Commissioners of Public Works in Ireland shall be substituted for the Public Works Loan Commissioners;

29 & 30 Vict. c. 44.

(5.) This Act, so far as it amends the Labouring Classes Lodging Houses and Dwellings (Ireland) Act, 1866, shall be construed with that Act, and that Act shall be included amongst the Labouring Classes Lodging Houses Acts, 1851 to 1867, as they are referred to under that description in this Act. So much of sub-section four of section twenty-one of the said Act of 1866 as provides that no bye-laws made under that Act shall be of any legal force until the same shall have received the approval of the Chief Secretary or Under Secretary for Ireland, shall be amended by substituting therein the Local Government Board for Ireland in lieu of the Chief or Under Secretary;

(6.) Nothing contained in this Act shall prevent the adoption by any town commissioners, not being an urban sanitary

authority, or by any such company, society, association, or private persons as are therein referred to, of the Labouring Classes Lodging Houses and Dwellings (Ireland) Act, 1866, by whom that Act might have been adopted if this Act had not been passed. Sect. 15.

Application of Act to Scotland.

16. In the application of this Act to Scotland the following provisions shall have effect:

(1.) The Labouring Classes Lodging Houses Acts, 1851 to 1867, may be adopted by any local authority under the Public Health (Scotland) Act, 1867, and the Acts amending the same, and the expenses shall be paid and money borrowed as under the last-mentioned Acts; 30 & 31 Vict. c. 101.

(2.) The provisions of this Act with respect to the adoption of the Labouring Classes Lodging Houses Acts, 1851 to 1867, by a rural sanitary authority shall apply to the adoption thereof by a local authority, being a parochial board, as if the Board of Supervision for the Relief of the Poor in Scotland were substituted in the said provisions for the Local Government Board;

(3.) In the provisions of this Act with respect to the purchase of land, section ninety of the Public Health (Scotland) Act. 1867, and the enactments amending that section, shall be substituted for sections one hundred and seventy-five to one hundred and seventy-eight of the Public Health Act, 1875;

(4.) The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875, and the Acts amending the same, shall apply to the whole of Scotland, and the local authority under the Public Health (Scotland) Act, 1867, and the Acts amending the same, shall be the local authority under the Act so applied.

Short title.

17. This Act may be cited as the Housing of the Working Classes Act, 1885.

Repeal.

18. The Acts mentioned in the schedule to this Act are hereby repealed to the extent in the third column of that schedule specified, without prejudice to anything done or suffered thereunder, or to any proceeding pending at the date of the passing of this Act.

Sched.

SCHEDULE.

Enactments Repealed.

A description or citation of a portion of an Act in this schedule is inclusive of the word section, or other part first and last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Short Title.	Extent of Repeal.
	Labouring Classes Lodging Houses Acts.	
14 & 15 Vict. c. 34 [1851]	The Labouring Classes Lodging Houses Act, 1851	Section two. Section three, except from "words importing the masculine" to the end of the section. Sections five to thirty-four. So much of sections thirty-five to forty-three as relates to parishes or to the commissioners for a parish, or to the vestry, guardians, churchwardens, or overseers of a parish. Section thirty-seven. Section forty. Section forty-one. Section forty-three from "and the surplus" to end of section. Section forty-four. In section forty-five from "and as to any parish" to the end of the section. In section forty-six the words "and commissioners" wherever they occur, and from "provided always" to the end of the section. So much of sections forty-eight, fifty-one, and fifty-two, and of the schedule, as relates to parishes or to the commissioners for a parish.
29 & 30 Vict. c. 28 [1866]	The Labouring Classes Dwelling Houses Act, 1866	So much of sections four, six, and seven, as authorizes any council, board, or other sanitary authority to borrow, or as relates to commissioners authorized to carry into execution the Labouring Classes Lodging Houses Act, 1851.

Sched.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 44 -	The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866	So much of sections three to seven, of sections eleven to thirteen, and of section twenty-three, as relates to urban sanitary authorities and urban sanitary districts. Section twenty-five.
46 & 47 Vict. c. 60 -	The Labourers (Ireland) Act, 1883	Section twenty.
	Artizans Dwellings Acts.	
42 & 43 Vict. c. 64 - [1879]	The Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879	Sections five and six.
	Artizans and Labourers Dwellings Improvement Acts.	
38 & 39 Vict. c. 36 - [1875]	The Artizans and Labourers Dwellings Improvement Act, 1875	So much of section two as relates to the population of urban sanitary districts.
38 & 39 Vict. c. 49 - [1875]	The Artizans and Labourers Dwellings Improvement (Scotland) Act	Section two.
45 & 46 Vict. c. 54 - [1882]	The Artizans Dwellings Act, 1882	Section eleven.

APPENDIX A.

Appndx.

This Appendix consists of three distinct parts, which may be thus briefly described:

Part I. contains the Labouring Classes Lodging Houses Acts (14 & 15 Vict. c. 34; 29 & 30 Vict. c. 28; 30 & 31 Vict. c. 28). These Acts enable local authorities to provide lodging-houses for the labouring classes, and to fit up and furnish them with all necessary furniture, fittings, and appliances. By reason of the extended meaning given to the word "lodging-houses" by the Act of 1885, a local authority may under this group of Acts provide a cottage and a garden of not more than half an acre, of which the yearly value does not exceed 3*l*. These Acts may be put in operation by all sanitary authorities, urban or rural.

Part II. contains the Artizans Dwellings Acts (31 & 32 Vict. c. 130; 42 & 43 Vict. c. 64; 45 & 46 Vict. c. 54, Part II.). Their object may be said to be the pulling down of premises in a state dangerous to health or unfit for human habitation, or which are necessary for the opening up and ventilation of courts and alleys. They cannot be put in operation except by district boards or vestries in the metropolis, the commissioners of sewers in the city of London, and urban sanitary authorities in boroughs and urban sanitary districts.

Part III. contains the Artizans and Labourers Dwellings Improvement Acts (38 & 39 Vict. c. 36; 42 & 43 Vict. c. 63; and 45 & 46 Vict. c. 54, Part I.). This group enables the local authority to deal not merely with unhealthy houses, but with unhealthy areas. Its objects are more fully stated in the preamble to the 38 & 39 Vict. c. 36. This group applies to the city of London, the metropolis, and all urban sanitary districts.

The Act of 1885 (48 & 49 Vict. c. 72), *ante*, is to a certain extent to be read as one with each of these groups. (See section 14.) But although it provides for the dealing with certain cases arising under Group II., under the powers conferred by Group III, and *vice versâ*, it does not really affect the distinct character of each group.

It may be mentioned that the Municipal Corporations Act, 1882, s. 111, contains certain provisions enabling municipal corporations to convert corporate land into sites for working men's dwellings, but these provisions are outside the scope of the present Work.

PART I.

THE LABOURING CLASSES DWELLING HOUSES ACTS.

THE LABOURING CLASSES LODGING HOUSES ACT, 1851.

14 & 15 Vict. Cap. 34.

An Act to encourage the Establishment of Lodging Houses for the Labouring Classes. [24th July, 1851.]

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Whereas it is desirable, for the health, comfort, and welfare of the inhabitants of towns and populous districts, to encourage the establishment therein of well-ordered lodging-houses for the labouring classes: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same;

Short title of Act.

I. That in citing this Act for any purpose it shall be sufficient to use the expression "The Labouring Classes Lodging Houses Act, 1851" (*a*).

* * * * *

Interpretation of terms.

III. That in this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say:

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Words importing the masculine gender shall include the feminine:
Words of the plural number shall include the singular, and words of the singular number shall include the plural.

* * * * *

In boroughs the council may appropriate, with consent of the Trea-

XXXV. That in any such borough (*b*) the council, with the approval of the Commissioners of Her Majesty's Treasury, may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen, and burgesses; and in any such district the

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(*a*) This Act was in part repealed by the Statute Law Revision Act, 1875 (38 & 39 Vict. c. 66). It has been considered most convenient to set it out here only in so far as it is in force: that is to say, in so far as it is not repealed.

(*b*) That is, in any municipal borough subject to the Municipal Corporations Acts.

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surv, lands vested in the mayor, &c., or contract for purchase of the same.

board (*a*) . . . . may from time to time appropriate for the purposes of this Act in the district any lands vested in the board or at the disposal of the board; . . . . and in any such borough the council, and in any such district the board, may from time to time, with the like respective approval (*b*), contract for the purchasing or renting of any lands necessary for the purposes of this Act; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the board in the case of a district . . . .

Councils may erect lodging-houses.

XXXVI. That the council and board (*c*) . . . . respectively may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be, respectively, erect any buildings suitable for lodging-houses (*d*) for the labouring classes, and convert any buildings into lodging-houses for the labouring classes, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences (*e*).

* * * * *

Council may purchase existing lodging-houses.

XXXVIII. That the council of any such borough, and the board of any such district, ... with such respective approval as is by this Act required with respect to the purchasing or renting in any other case of any lands necessary for the purposes of this Act (*f*), may, if they shall think fit, contract for the purchase or lease of any lodging-houses for the labouring classes (*g*) already or hereafter to be built and provided in any such borough or district . . . . and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any lodging-houses for the labouring classes which have been already or may hereafter be provided in any such borough or district . . . . by private subscriptions or otherwise, may, with the consent of the council of any such borough, or with the consent of the board of any such district, ... and with the like respective approval, and with the

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(*a*) *District* means urban or rural district, and a *board* means urban or rural authority, other, of course, than the council of a borough, which is here expressly provided for. See 48 & 49 Vict. c. 72, s. 1, sub-sect. 4 (*e*), *ante*, p. 14.

(*b*) As the section originally stood it applied to the board of a district, with the approval of the general board of health, and to the commissioners of a parish, with the approval of the vestry and the guardians and the Poor Law Board. Hence the phrase *respective* approval. As the section now stands, no approval is required except that of the Treasury Commissioners in the case of the council of a borough.

(*c*) See note (*a*), *supra*.

(*d*) See the extension of this term by the 48 & 49 Vict. c. 72, ss. 2, 13, *ante*. The expression "lodging-houses for the labouring classes" now includes separate houses or cottages for the labouring classes, whether containing one or several tenements. And the expression "cottage" may include a garden of not more than half an acre, of which the annual value does not exceed 3*l*.

(*e*) The provision as to fitting up and furnishing is important, and deserves attention. The local authority have full discretion as to the kind and quantity of the fittings and furniture.

(*f*) See section 35, *ante*, and the notes to that section.

(*g*) See section 36, note (*d*).

consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease the said lodging-houses to the said council or board . . . . respectively, or make over to them the management of such lodging-houses; and in all such cases the lodging-houses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act, as fully as if they had been built or provided by the council or board . . . . and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the board in the case of a district . . . .

Power to water and gas companies to supply water and gas to lodging-houses.

XXXIX. That any commissioners of waterworks, trustees of waterworks, water companies, gas companies, and other corporations, bodies, and persons having the management of any waterworks, reservoirs, wells, springs, and streams of water, and gasworks respectively, may, in their discretion, grant and furnish supplies of water or gas for such lodging-houses, either without charge or on such other favourable terms as they shall think fit (*h*).

* * * * *

Council, &c., empowered to make sale and exchange of lands, with consent.

XLII. That the council, with the approval of the Commissioners of Her Majesty's Treasury and the board (*i*) . . . . may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the board . . . . respectively, for the purposes of this Act, and apply the proceeds, or a sufficient part thereof, in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes, and the mayor, aldermen, and burgesses, or the board . . . . may convey the lands so sold or exchanged accordingly.

When lodging-houses are considered too expensive, they may, with approval of Treasury, be sold, and proceeds of sale carried to borough fund or poor's rate

XLIII. That whenever any lodging-houses which shall have been for seven years or upwards established under the authority of this Act (*k*) shall be determined by the council, or by the board, ... to be unnecessary or too expensive to be kept up, the council, ... with the approval of the Commissioners of Her Majesty's Treasury, or the board (*i*) . . . . may sell the same for the best price that can reasonably be obtained for the same, and the mayor, aldermen, and burgesses, or the board . . . . shall convey the same accordingly, and the purchase money shall be paid to such person as the council or board . . . . shall appoint, and his receipt shall be a sufficient discharge for the same, and the net proceeds of such sale shall be applied in the

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(*h*) If the water supply is in the hands of the local authority, this section will enable them to supply water to houses provided under the Act at a reduced rate or gratuitously.

(*i*) See section 35, *ante*, and the notes to that section.

(*k*) Note that if the authority have provided houses under the Act they cannot discontinue the maintenance of such houses until after a period of seven years.

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first instance in or towards payment or satisfaction of all the debts, liabilities, and engagements whatsoever, with respect to the purposes of this Act, of the council, the board (*a*). . . . .

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Management to be vested in council and parish commissioners.

XLV. That the general management, regulation, and control of the lodging-houses established under this Act shall, subject to the provisions of this Act, be, as to any borough, vested in and exercised by the council, and as to any district vested in and exercised by the board (*b*). . . . .

Council, &c., may make bye-laws for regulating the lodging-houses.

XLVI. That the bye-laws which the council and board (*b*) . . . . respectively may from time to time make, alter, repeal, and enforce shall include such bye-laws for the management, use, and regulation of the lodging-houses, and of the tenants or occupiers thereof, and for determining from time to time the charges for the tenancy or occupation of the lodging-houses, as the council and board . . . . respectively shall think fit (*c*), and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants, or by other persons, of any bye-law made by them respectively (*d*), and such bye-law shall make sufficient provision for the several purposes respectively expressed in the schedule to this Act. . . . .

Bye-laws to be hung up in every room in the lodging-houses.

XLVII. That a printed copy or sufficient abstract of the bye-laws relating to the management, use, and regulation of the lodging-houses shall be put up and at all times kept in every room therein (*e*).

Charges for occupation, &c., to be fixed by councils and commissioners.

XLVIII. That the council and the board (*b*) . . . . respectively may from time to time make such reasonable charges for the tenancy or occupation of the lodging-houses provided under this Act as they shall think fit.

As to tenants of lodging-houses

XLIX. That any person who, or whose wife or husband, at any time whilst such person is a tenant or occupier of any such lodging-house or

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(*a*) The proceeds of the sale will be receipts under the Act, and must be applied as provided by 48 & 49 Vict. c. 72, s. 1, sub-sect. (4), *c*, *ante*, p. 14.

(*b*) See section 35, *ante*, and the notes to that section.

(*c*) All the provisions of the Public Health Act, 1875, as to bye-laws apply to bye-laws made under this section. (48 & 49 Vict. c. 72, s. 10, sub-sect. (1) (*b*), *ante*, p. 22). These provisions relate to the making and alteration of bye-laws, the imposing of penalties, the confirmation, publication, and evidence of bye-laws. See sections 182—86.

(*d*) Besides this penalty an additional penalty of forty shillings per day for continuing offences may be imposed under section 183 of the Public Health Act, 1875. These penalties are recoverable on summary conviction. (48 & 49 Vict. c. 72, s. 10, sub-sect. (1), *ante*, p. 22; and see section 316 of the Public Health Act, 1875.)

(*e*) It may be doubted whether this section would require the hanging up of a copy in every room of a house or cottage or part thereof let as a separate tenement. The bye-laws must also be published as provided by section 185 of the Public Health Act, 1875, by hanging up a copy in the office; and in the case of a rural authority by depositing a copy with the overseers of every parish in which they are in force. Copies must also be supplied to ratepayers on application.

any part of such a lodging-house (*f*), receives any such relief (*g*), other than such relief granted on account only of accident or temporary illness, shall thereupon be disqualified for continuing to be such a tenant or occupier (*h*). receiving parochial relief.

L. That every lodging-house established under this Act which shall be within the district of a local board of health (*i*) shall at all times be open to the inspection of such board, and the officers thereof from time to time authorized by such board to make such inspection. Lodging-houses to be open to inspection of local boards of health.

LI. That if any clerk or other officer or any servant who shall be in anywise employed by any council or board . . . . in pursuance of this Act shall exact or accept any fee or reward whatsoever for or on account of anything done or forborne, or to be done or forborne, in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or board . . . . or shall in anywise be concerned or interested in any bargain or contract made by the council or board . . . . for or on account of anything done or forborne, or to be done or forborne, in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the council or member of the board . . . . shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit not exceeding the sum of fifty pounds (*k*). Penalty on council or officers taking fees beyond salaries, or being interested in contracts.

LII. That such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit, as regards a borough, of the borough fund, and, as regards a district, of the general district rate thereof or the improvement rate thereof (*l*). . . . . Application of penalties.

LIII. That nothing in this Act shall extend to Scotland (*m*). Not to extend to Scotland.

(*f*) See section 36, *ante*, and the notes to that section.

(*g*) Such relief must mean parochial relief, but there is no antecedent to which the word *each* can refer.

(*h*) This seems to be a very harsh provision, but apparently the local authority must turn out any tenant or occupier who, or whose wife or husband, is in receipt of relief. And note that relief granted to a child under sixteen is relief to the parent. (4 & 5 Will. 4, c. 76, s. 56.)

(*i*) See section 35, note (*a*). By reason of the extended definition of the terms "district" and "board," this provision will apply to all sanitary districts and authorities.

(*k*) See with regard to officers the Public Health Act, 1875, s. 193, and as to members of local boards, Schedule II., Rule 64, of the same Act. Note that the incapacity is limited to serving or being employed *under this Act*. The section makes no provision for the recovery of the penalty, but the procedure will apparently be by action. *Quære*, whether section 253 of the Public Health Act, 1875, will apply. Apparently not, as the penalty is not under that Act.

(*l*) This section probably means that the penalty will be payable as in actions *qui tam*, in which one-half is payable to the informer. No provision is made for the payment of any part to a rural authority.

(*m*) See, however, 30 Vict. c. 28, s. 4, *post*.

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SCHEDULE referred to by the foregoing Act.

1. *Bye-laws to be made in all Cases.*

For securing that the lodging-houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the council or board. . . . .

For securing the due separation at night of men, and boys above eight years old, from women and girls.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the council or board. . . . .

2. *Bye-laws to be made in Boroughs, Districts . . . . wholly or partially within the Districts of Local Boards of Health.*

For carrying out the regulations of the local boards of health.

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THE LABOURING CLASSES LODGING HOUSES ACT, 1866.

(29 Vict. Cap. 28.)

An Act to enable the Public Works Loan Commissioners to make Advances towards the Erection of Dwellings for the Labouring Classes.

[18th May, 1866.]

Whereas by "The Labouring Classes Lodging Houses Act, 1851," powers were vested in certain local authorities for the purpose of facilitating the erection of lodging-houses for the labouring classes:

And whereas it is desirable that further provision should be made for facilitating and encouraging the erection of dwellings for the labouring classes in populous places:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as "The Labouring Classes Dwelling Houses Act, 1866."

Act incorporated with 14 & 15 Vict. c. 34.

II. This Act shall be deemed to be incorporated with and shall be taken as part of "The Labouring Classes Lodging Houses Act, 1851,' and the two Acts shall be read and construed together as if they were one Act.

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Application of 24 & 25 Vict. c. 80, to this Act.

III. All the clauses, powers, authorities, provisoes, enactments, directions, regulations, restrictions, privileges, priorities, advantages, penalties, and forfeitures contained in and conferred and imposed by the Act of the session of the twenty-fourth and twenty-fifth years of Her Majesty's reign, chapter eighty (Public Works and Harbours Act), and the Acts therein referred to, or any of them, so far as the same can be made applicable and are not varied by this Act, shall be taken to extend to this Act, and to everything to be done in pursuance of this Act, and as if the same were herein repeated and set forth (*a*).

Authorities and persons to whom loans may be made.

IV. For the purpose hereinafter mentioned, the Public Works Loan Commissioners, as defined by the said Act of the twenty-fourth and twenty-fifth years of Her Majesty (*a*), may out of the funds for the time being at their disposal from time to time advance on loan (*b*) . . . . to any such body or proprietor as hereinafter mentioned, namely,—

Any railway company, or dock or harbour company, or any other company, society, or association established for the purposes of this Act, or for trading or manufacturing purposes (*c*);

Any private person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired;

And any such . . . . body or proprietor may from time to time borrow from the Public Works Loan Commissioners such money as may be required for the purpose of this Act, subject and according to the following provisions:

Objects of loans.

1. Such advance on loan shall be made for the purpose of assisting in the purchase of land and buildings, or in the erection, alteration,

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(*a*) The 24 & 25 Vict. c. 80, was repealed by the Public Works Loans Act, 1875. By section 55 of the latter Act, a reference in any Act to any enactment thereby repealed is, so far as is consistent with the tenor thereof, to be deemed to refer to the corresponding enactment in that Act. The effect is to substitute generally for the 24 & 25 Vict. c. 80, the provisions of the Public Works Loans Act, 1875 (38 & 39 Vict. c. 89), and amending Acts: 39 & 40 Vict. c. 31; 41 Vict. c. 18; 42 & 43 Vict. c. 77; 44 & 45 Vict. c. 38; 45 & 46 Vict. c. 62, and 46 & 47 Vict. c. 42. The text of these Acts is set out in the 2nd edition of Lumley's Public Health Acts.

(*b*) By the 48 & 49 Vict. c. 72, so much of sections 4, 6, and 7 of this Act as authorized any council, board, or other sanitary authority to borrow, was repealed. The power to borrow by local authorities from the Public Works Loan Commissioners now depends upon section 243 of the Public Health Act, 1875, which is applicable by virtue of the general provision contained in the 48 & 49 Vict. c. 72, s. 2, sub-section (4) (*a*). As to the general borrowing powers of local authorities, see the Public Health Act, 1875, ss. 233-244. The remainder of this section, therefore, applies only to the bodies or proprietors herein-mentioned.

(*c*) This general provision may be limited by the powers of the company. The doctrine of *ultra vires* may be held to prevent many trading or manufacturing companies from erecting dwelling-houses for the working classes, and from borrowing money for such a purpose. This limitation cannot extend, however, to railway dock or harbour companies, who are here expressly mentioned. See section 8, *post*.

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and adaptation of buildings to be used as dwellings for the labouring classes (*a*), and in providing all conveniences which may be deemed proper in connexion with such dwellings :

2. Any such advance may be made whether the . . . . body or proprietor receiving the same has or has not power to borrow on mortgage or otherwise, independently of this Act ; but nothing in this Act contained shall repeal or alter any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up :

3. No sum shall be advanced without the approval of the Commissioners of Her Majesty's Treasury of the borrowing thereof, signified by some writing under the hand of one of their Secretaries or Assistant Secretaries :

Rules and regulations.

4. It shall be lawful for the said Commissioners of Her Majesty's Treasury to make such rules and regulations (*b*) as they shall from

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(*a*) Note the word *dwellings*. Hitherto the word used has been *lodging-houses*. Probably the meaning of the word *dwellings* is the same, especially as the meaning of the word *lodging-houses* has now been extended as already stated (*ante*, p. 16, note (*a*).

(*b*) The following rules and regulations have been made :—

COPY OF RULES AND REGULATIONS WITH REFERENCE TO LOANS TO BE MADE TOWARDS THE ERECTION OF DWELLINGS FOR THE LABOURING CLASSES, UNDER THE 29 VICT. C. 28.

1. *As regards Applications.*

All applications shall be made to the Public Works Loan Commissioners by letter addressed to their secretary, generally setting forth description and nature of the company or authority proposing to obtain an advance.

Plans of the ground proposed to be taken, and of the houses, if any, upon it, should accompany the application, as well as plans and specifications of the proposed buildings, calculated to show that the dwellings are suitable for the labouring classes, and that they possess all proper and necessary conveniences in connection with such dwellings, together with an estimate of the cost, and a statement showing how it is proposed to raise the difference between the loan and the estimate.

An assurance should be appended, given on the part of the applicant, that the houses are *bonâ fide* intended as dwellings for the labouring classes.

Parties to whom loans may be advanced will be required to enter into covenants to repair and insure for user (as far as practicable) by persons belonging to the labouring classes, and to submit to such bye-laws as shall be approved by the Commissioners of the Treasury, and to such inspection of the dwelling-houses from time to time, both as regards repair and conformity to bye-laws, as the Commissioners of the Treasury may direct, and such other covenants as the commissioners may deem necessary.

The Public Works Loan Commissioners shall submit the plans, specifications, and estimates to the Board of Works for their opinion, and report as to their suitability and sufficiency for occupation by persons of the labouring classes.

2. *As regards Treasury Sanction.*

1. All applications for the sanction of a loan, as required under section 4 of 29 Vict. c. 28 (3), shall be made to the Treasury through the Public Works Loan Commissioners, and shall be accompanied by the Report of the Board of Works, and by a certificate or statement by the Public Works Loan Commis-

time to time think proper with respect to applications for advances under this Act, and the terms and conditions upon which such advances are to be made, and to issue such instructions and forms as they may think proper for the guidance of and observance by persons applying for or receiving loans, or executing works, or rendering accounts of moneys expended under this Act; or regarding the class of dwellings towards the providing of which such loans may be made, and the adaptation thereof to the purposes intended, and as to the mode of providing for their maintenance, repair, and insurance :

Currency of loans.

5. The period for the repayment of the sums advanced shall not exceed forty years :

6. The repayment of the money advanced, with interest thereon at such rate as shall be agreed upon, but not at a less rate than four pounds per centum per annum (*c*), shall be secured as follows; namely, ... by a mortgage of the estate or interest of any such . . . . body or proprietor as aforesaid, in the land or dwellings for the purposes of which the advance is made (*d*); and in the case of an advance to a company any part of whose capital remains uncalled up or unpaid, by a mortgage also of all capital so remaining uncalled up or unpaid (*e*); and any such mortgage as aforesaid may be taken either alone or together with any other security which may be agreed upon; but it shall not be incumbent on the Public Works Loan Commissioners to require any other security :

7. No money shall be advanced on mortgage of any land or dwellings solely, unless the estate therein proposed to be mortgaged shall be either an estate in fee simple or an estate for a term of years absolute, whereof not less than fifty years shall be unexpired at the date of the advance :

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sioners, that the party applying for the advance has satisfied them that the security is adequate, and that sufficient means exist for carrying out the undertaking.

2. On being satisfied on these points, the Treasury sanction will be given, subject to the sufficiency of the title being established for the satisfaction of the Public Works Loan Commissioners.

3. *As regards Expenditure and Application for Instalments of Advances.*

1. The application shall be to the Public Works Loan Commissioners, and in such form as they shall approve.

2. It shall contain a detailed statement or certificate of the expenditure actually incurred, and a certificate of the state of the works, and such works shall be subject to the inspection and report of an officer of the department of works.

(*c*) But see 48 & 49 Vict. c. 72, s. 6, as to the interest on loans effected before the 31st December, 1888.

(*d*) These words are now to be construed to include any land, buildings, or premises held together, with and for the same estate and interest as the lands, buildings, or premises upon which the money is advanced is to be expended under the provisions of the Act (31 Vict. c. 28, s. 2, *post*).

(*e*) The commissioners may dispense with a mortgage of the capital remaining uncalled up, or unpaid (31 Vict. c 28, s. 3, *post*).

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8. The money advanced on the security of a mortgage of any land or dwellings solely shall not exceed one moiety of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in such land or dwellings proposed to be mortgaged; but advances may be made by instalments from time to time as the building of the dwellings on the land mortgaged progresses, so that the total advance do not at any time exceed the amount aforesaid: and a mortgage may be accordingly made to secure such advances so to be made from time to time:

9. For the purposes of this Act every such . . . body as aforesaid is hereby authorized to purchase, take, and hold land, and if not already a body corporate shall, for the purpose of holding such land under this Act, and of suing and being sued in respect thereof, be nevertheless deemed a body corporate with perpetual succession.

Incorporation of 8 & 9 Vict. cc. 18, 19, with this Act.

V. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation (Scotland) Act, 1845, and any Act amending the same, except the clauses in the said Acts respectively with respect to the purchase and taking of lands otherwise than by agreement, shall be incorporated with this Act, and for the purposes of those Acts this Act shall be deemed the special Act; and any such local or other authority or body or proprietor as aforesaid exercising the powers of this Act shall be deemed the promoters of the undertaking (*a*).

Incorporation of 10 & 11 Vict. c. 16, with this Act.

VI. The clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners (*b*), except so far as the same may be inconsistent with the provisions of the said Act of the twenty-fourth and twenty-fifth years of Her Majesty, chapter eighty (*c*), or of any of the Acts therein recited, shall be incorporated with this Act; and in the construction of this Act and of the said incorporated clauses, this Act shall be deemed the special Act; and . . . the body or proprietor, to whom the loan is made, shall be deemed to be the commissioners; but the said incorporated clauses shall not, so far as they prescribe the manner of executing mortgages, or so far as they require a register to be kept of mortgages, or transfers of mortgages, apply to any mortgage made under this Act by any proprietor being a private person; and all mortgages executed by any proprietor being a private person shall be executed in the usual manner.

Special powers of mortgagees

VII. Every mortgage under this Act shall confer on the mortgagee thereunder for the time being all the rights, powers, and privileges conferred on mortgagees by Part II. of the Act of the session of the twenty-

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(*a*) This provision is now unnecessary, for, as already stated, sanitary authorities can now exercise their powers for the purchase of lands under the Public Health Act, 1875. The 14 & 15 Vict. c. 34, s. 34, contained a similar provision, but it was repealed by the 48 & 49 Vict. c. 72 (*ante*, p. 28), and it is not easy, therefore, to explain why the above section was not also repealed, unless, perhaps, it were for the sake of the enactment as to Scotland. The Lands Clauses Act, 1845 (8 Vict. c. 18), is set out in the 2nd edit. of Lumley's Public Health, at p. 505. The amending Acts are the 23 & 24 Vict. c. 106, p. 681; 32 & 33 Vict. c. 18, p. 707; 46 & 47 Vict. c. 15, p. 984.

(*b*) These clauses also are not set out in Lumley's Public Health Act.

(*c*) See note (*a*), *ante*, p. 37.

third and twenty-fourth years of Her Majesty, chapter one hundred and forty-five, intituled "An Act to give to Trustees, Mortgagees, and others certain powers now commonly inserted in Settlements, Mortgages, and Wills" (*d*); and any such mortgage may confer on the mortgagee such further powers of sale and other powers, and may also contain all such covenants and provisions as may be agreed upon; and nothing contained in this Act or in any clauses incorporated in the "Labouring Classes Lodging Houses Act, 1851," or in this Act, shall be deemed to limit or prevent the enforcement of any rights or remedies which, at law or in equity, or by statute, may be otherwise incidental to any such mortgage, either under the Acts relating to the Public Works Loan Commissioners, or otherwise (*e*).

Powers to companies.

VIII. Any railway company, or dock or harbour company, or any other company, society, or association, established for trading or manufacturing purposes in the course of whose business or in the discharge of whose duties persons of the labouring class are employed (*f*), may and are hereby (notwithstanding any Act of Parliament, or charter, or any rule of law or equity to the contrary,) authorized at any time or from time to time to erect, either on their own land or any other land (which they are hereby authorized to purchase and hold for the purpose, and to pay for out of any funds at their disposal), dwellings for the accommodation of all or any of the persons of the labouring class employed by them, and shall have all the like powers of borrowing and other powers which are hereinbefore conferred on any such body or proprietor as hereinbefore mentioned (*g*).

Rules to be laid before Parliament.

IX. All rules and regulations made by the Lords Commissioners of the Treasury under the provisions of this Act shall be laid before Parliament (*h*).

Extent of Act.

X. This Act shall not extend to Ireland.

(*d*) This part of the 23 & 24 Vict. c. 145, was repealed by the Conveyancing Act, 1881, s. 71. The powers of a mortgagee are now regulated by the latter Act, sections 19-24, which are made applicable by the concluding words of the section.

(*e*) See the preceding note. See also the provisions of the Public Works Loans Act, 1875 (38 & 39 Vict. c. 89, ss. 18-34), as to the recovery of loans; (pp. 834-840).

(*f*) This section explains the difficulty already indicated under section 4, as to what companies, &c., may avail themselves of the powers conferred by this Act.

(*g*) Section 4, *ante*, gave power only to borrow for the purposes authorized by this section.

(*h*) See note (*b*), *ante*, p. 38.

THE LABOURING CLASSES DWELLING HOUSES ACT, 1867.

(31 Vict. Cap. 28.)

An Act to amend "The Labouring Classes Dwellings Acts, 1866."
[17th June, 1867.]

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Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act may be cited as "The Labouring Classes Dwelling Houses Act, 1867."

Defining meaning of certain terms in 29 & 30 Vict. cc. 28 and 44.

II. In the fourth section of "The Labouring Classes Dwelling Houses Act, 1866" (*a*), the words "land or dwellings for the purposes of which the advance is made," and in the twelfth section of "The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866," the words "lands, buildings, or premises for the purpose of which such advance shall be made," shall respectively be construed to include any land, buildings, or premises held together with and for the same estate and interest as the lands, buildings, or premises upon which the money advanced is to be expended under the provisions of the said Acts respectively.

In case of advances to company, part of whose capital is unpaid, Loan Commissioners may dispense with mortgage.

III. In the case of an advance under the provisions of either of the said Acts to a company or society, any part of whose capital remains uncalled up or unpaid, it shall be lawful, in England for the Public Works Loan Commissioners, and in Ireland for the Public Works Commissioners, to dispense with a mortgage of such capital remaining uncalled up or unpaid, or of such part thereof as they may think fit (*b*).

Extending 29 & 30 Vict. c. 28, to Scotland.

IV. Notwithstanding the fifty-third section of "The Labouring Classes Lodging Houses Act, 1851" (*c*), all the provisions of "The Labouring Classes Dwelling Houses Act, 1866," so far as they are applicable to Scotland, shall be deemed and construed to extend and apply to Scotland.

(*a*) See the section, *ante*, p. 39.
(*b*) See the Act as amended, *ante*, p. 39.
(*c*) See the section, *ante*, p. 35.

PART II.

THE ARTIZANS DWELLING ACTS.

THE ARTIZANS AND LABOURERS DWELLINGS ACT, 1868.

(31 & 32 Vict. Cap. 130.)

An Act to provide better Dwellings for Artizans and Labourers.
[31st July, 1868.]

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Whereas it is expedient to make provision for taking down or improving dwellings occupied by working men and their families which are unfit for human habitation, and for the building and maintenance of better dwellings for such persons instead thereof: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. In citing this Act it shall be sufficient to use the words "The Artizans and Labourers Dwellings Act, 1868" (*d*).

* * * * *

Interpretation of terms:

III. The following words and expressions have in this Act the following meanings, unless excluded by the subject or context; (that is to say,)

"Street" and "square:"

The word "street" includes any court, alley, street, square, or row of houses (*e*):

"Premises:"

The word "premises" means any dwelling-house or inhabited building, and the site thereof, with the yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith (*f*):

"Owner:"

The expression "owner," in addition to the definition given by the Lands Clauses Act (*g*), shall include all lessees or mortgagees of any premises required to be dealt with under this Act, except persons

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(*d*) Section 2 of the Act was repealed by the 42 & 43 Vict. c. 64, s. 13, and is replaced by section 2 of that Act, *post*. The substituted section provides for the application of the Act by urban sanitary authorities.

(*e*) Note that this definition is less extensive than that contained in section 4 of the Public Health Act, 1875. The word as here defined has its popular meaning.

(*f*) This definition also is less extensive than that contained in the Public Health Act, 1875, s. 4. Premises thus include only dwelling-houses, *i.e.*, houses intended for human habitation and houses actually inhabited, together with the site, &c.

(*g*) The Lands Clauses Act, 1845 (8 Vict. c. 18, s. 3), provides that the word "owner" shall be understood to mean any person or corporation who, under the provisions of that or the special Act, would be entitled to sell and

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holding or entitled to the rents and profits of such premises for a term of years, of which twenty-one years do not remain unexpired:

"Person:" "Person" shall include a body of persons, corporate or unincorporate:

"Quarter sessions:" "Quarter sessions" shall include general sessions, and in Ireland shall mean, in towns and boroughs where there are separate quarter sessions, the quarter sessions of said boroughs and towns, and in boroughs where there are no separate quarter sessions, the quarter sessions of the divisions of the courts in which such towns or boroughs shall be situate:

"Officer of health:" "Officer of health" shall mean and include medical officer of health, sanitary inspector, or any statutory officer peforming the duties which a medical officer or sanitary inspector performs under or by virtue of any Act of Parliament (*a*):

"Local officer," &c. In all cases in which the name of a local authority, local court, magistrate, or officer having any local jurisdiction in respect of their or his office is referred to, without mention of the locality to which the jurisdiction extends, such reference is to be understood to indicate the local authority, local court, magistrate, or officer having jurisdiction in that place within which are situate the premises or other subject matter or any part thereof to which such reference applies:

"The metropolis:" "The metropolis" shall not include the city of London or the liberties thereof, but shall include all other parishes or places within the jurisdiction of the Metropolitan Board of Works:

"Borough" in England: "Borough" in England shall mean any place for the time being subject to the Act passed in the session holden in the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to Provide for the Regulation of Municipal Corporations in England and Wales" (*b*):

"Burgh" in Scotland: "Burgh" in Scotland shall mean any place returning or contributing to return members to Parliament, or any place subject to the jurisdiction of a town council:

"Borough" in Ireland. "Borough" in Ireland shall mean any place for the time being subject to the Act passed in the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, and intituled "An Act for the Regulation of Municipal Corporations in Ireland."

As to appointment of officers of health and payment of salaries. IV. If in any place to which this Act applies there is no officer of health within the meaning of this Act, the local authority, with the approval of one of Her Majesty's principal Secretaries of State, shall forthwith appoint such an officer for such period as shall be necessary, shall assign him his duties, and pay him such salary or emolument out of the local rate as they, with such approval as aforesaid, shall think fit.

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convey lands to the promoters of the undertaking. Under this Act are included persons having a leasehold interest, of which at least 21 years are unexpired; and mortgagees holding or entitled to the rents and profits. The definition is a little vague as to mortgagees, but it appears to include only mortgagees in possession.

(*a*) This definition is practically superseded as to urban districts by that contained in the 42 & 43 Vict. c. 64, s. 3, *post*.

(*b*) Now the Municipal Corporations Act, 1882, 45 & 46 Vict. c. 50, s. 242, and Schedule IX., Part I.

The local authority, with the like approval, may from time to time remove any officer appointed under this section, and in manner aforesaid appoint another officer in his place (*c*).

Officer of health to report as to condition of streets.

V. If in any place to which this Act applies the officer of health (*d*) find that any premises therein are in a condition or state dangerous to health so as to be unfit for human habitation (*e*), he shall report the same in manner hereinafter provided to the local authority (*f*).

Officer of health to deliver copies of report to clerk of local authority, who shall refer the same to a surveyor, &c.

VI. Every report made under this Act by the officer of health shall be made in writing and delivered to the clerk of the local authority, and the local authority shall refer such report to a surveyor or engineer (*g*), who shall thereupon consider the report so furnished to him, and report to the local authority what is the cause of the evil so reported on, and the remedy thereof (*h*), and if such evil is occasioned by defects in any premises, whether the same can be remedied by structural alterations and improvements or otherwise, or whether such premises, or any and what part thereof, ought to be demolished.

Local authority to cause copies of

VII. Upon receipt of the report of the surveyor and (*i*) engineer the local authority shall cause copies of both the reports (*h*) to be given to

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(*c*) By the Public Health, Act, 1872 (35 & 36 Vict. c. 79, s. 11), this section was repealed, and all powers and duties conferred and imposed on officers of health under this Act were to be exercised and performed by the medical officers of health from time to time appointed under the Sanitary Acts or that Act, or any local Act. The Public Health Act, 1872, was repealed except as to the metropolis, by the Public Health Act, 1875.

(*d*) See 42 & 43 Vict. c. 64, s. 3, *post*, and note (*a*), *ante*, p. 44.

(*e*) This condition or state has reference to the sanitary condition or state of the premises. A house might be unfit for habitation by reason of being ruinous, but it could not be for that reason dangerous *to health*.

(*f*) Local authority is defined by the 42 & 43 Vict. c. 64, s. 2, and Schedule I., *post*. Where an official representation under the Artizans and Labourers Dwellings Improvement Act, 1875, made to the Metropolitan Board of Works, relates to not more than ten houses, that board is to direct their officer to report the case to the local authority under this section (45 & 46 Vict. c. 54, s. 6, *post*), and the report is to be dealt with accordingly. See also the 48 & 49 Vict. c. 72, s. 5, *ante*, p. 17, and note (*b*) to the 38 & 39 Vict. c. 36, s. 1, *post*, for other cases in which a report made under the Artizans and Labourers Dwellings Improvement Act, 1875. must be dealt with under this section. By the 48 & 49 Vict. c. 72, s. 5, when a report has been made to a local authority in the metropolis as provided by the text, and the local authority resolve that the case is of general importance to the metropolis, they may apply to a Secretary of State with a view to having the case dealt with by the Metropolitan Board under the next group of Acts.

(*g*) The surveyor or engineer may be, but need not necessarily be, in the permanent service of the local authority. Thus the report might be referred by the local authority to their own surveyor, or to an independent surveyor or engineer.

(*h*) The same report may relate to several houses which are the property of the same owner (*Flight* v. *St. George's, Southwark* (*Vestry of*), 25 L. T. (N.S.) 24). Two reports are here mentioned. One is the report of the officer of health, which need only state that the premises are in his opinion in a condition dangerous to health, so as to be unfit for human habitation. The other is the report of the surveyor or engineer as to the cause of the dangerous condition of the premises, and the remedy thereof.

(*i*) This must evidently be read "surveyor *or* engineer." See the last section.

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reports to be given to owner, who may object to the same, and to prepare plan and specification of required works.

the owner (*a*), with notice of the time and place appointed by the local authority for the consideration thereof, and such owner shall be at liberty to attend and to state his objections (if any) to such reports (*b*), or either of them, including therein any objection that the necessary works ought to be done by or at the expense of some other person or persons, or at the expense of the parish or district in which the premises are situate; and on such objections the local authority shall make an order in writing (*c*), signed by the clerk of such local authority, which shall be subject to appeal in manner hereinafter mentioned; and if such objections are overruled (*d*), the local authority, if they deem it necessary, shall cause to be prepared a plan and specification of the works (if any), and an estimate of the cost of such works required to be executed.

Clerk of local authority to give notice to owner of plan, &c., of required works having been prepared.

VIII. The clerk of the local authority shall thereupon forthwith (*e*) give notice to the owner of the premises, informing him that a plan and specification and estimate of the cost of such works as are required in reference thereto have been prepared, and that such plan and specification and estimate may, if such owner think fit, be inspected and transcribed (*f*) by him or his agent at the office of the clerk of the local authority without charge; and any such owner may at any time within three weeks after the receipt of such notice state in writing to the clerk of the local authority any objection which he may entertain to the said plan, specification, and estimate, or any of them, and may attend at a time and place to be appointed for such purpose by the local authority to support such objections; and the local authority shall thereupon make such order in relation thereto as they may think fit (*g*); and if

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(*a*) See the definition of "owner" in section 3, *ante*, and the note thereto.

(*b*) Apparently the owner may dispute the accuracy of the reports in point of fact. He may also, while admitting the condition of the premises, object to the remedy proposed by the surveyor or engineer to the structural alterations recommended, or to the suggestion that the premises, or part thereof, should be demolished. He may also object on the grounds stated in the question.

(*c*) What order is to be made? The order must have reference to the objections, but it would appear to be unnecessary to make any order except for the execution of the works necessary to put the premises in proper condition. Do the words "such objections" refer only to those specified in the earlier part of the section?

(*d*) This is very obscure. It can hardly mean "if all of such objections are overruled," for the local authority might give effect to one or more objections, and still require the works to be done. "Such objections" must be limited, apparently, either to the objections specified in the preceding part of the section, or to objections relating to the execution of the works by the owner. It is submitted that the most reasonable construction of the section is the following: The owner states all his objections. The local authority considers them, and makes an order either that the works are not to be executed or that certain works are to be executed, and in the latter case the local authority may cause plans and specifications to be prepared of the works necessary to remedy the condition of the premises. Compare the 45 & 46 Vict. c. 54, s. 8, subsection (3), *post*, p. 70.

(*e*) That is, after the plans, &c., have been prepared. The same surveyor or engineer who made the report will in general prepare the plans and specifications.

(*f*) The owner may take, but cannot demand a copy.

(*g*) The order will either disallow the objection, or will give effect to it by providing for an alteration, which must then be made as provided by the concluding part of the section.

they decide that any alteration is to be made in the said plan, specification, and estimate, the local authority shall cause such alteration to be made accordingly, and the plan and specification and estimate so amended shall be the plan and specification and estimate according to which the works shall be executed.

Persons aggrieved by order of local authority may appeal against the same.

IX. Any person aggrieved by any order of the local authority (*h*), or his agent, may appeal against the same to the court of quarter sessions held next after the making of the said order, but the appellant shall not be heard in support of the appeal unless, within one calendar month (*i*) after the making of the order appealed against, he give to the clerk of the local authority notice in writing stating his intention to appeal, together with a statement in writing of the grounds of appeal, and shall, within two days after giving such notice, enter into a recognizance before some justice of the peace, with sufficient securities, conditioned to try such appeal at the said court, and to abide the order of and pay such costs as may be awarded by the court or any adjournment thereof; and the court, upon the appearing of the parties, or upon their making default, shall have full power and jurisdiction to make such order and give such directions as under the circumstances shall seem just, and may, according to its discretion, award such costs to the party appealing or appealed against, as they think proper, and the determination of the court in or concerning the premises shall be conclusive and binding on all persons to all intents or purposes whatsoever: Provided,—

First, that if there be not time to give such notice and enter into such recognizance as aforesaid, then such appeal may be made to, and such notice, statement, and recognizance be given and entered into for the next sessions at which the appeal can be heard (*i*):

Secondly, that on the hearing of the appeal no grounds of appeal shall be gone into or entertained other than those set forth in such statement as aforesaid (*k*):

Thirdly, that in any case of appeal the court shall, at the request of either party, state the facts specially for the determination, in England or Ireland of Her Majesty's Court of Queen's Bench, or in Scotland of either division of the Court of Session, in which case it shall be lawful to remove the proceedings, by writ of *certiorari* or by petition, into the said Courts of Queen's Bench or to the Court of Session respectively (*l*):

(*h*) Note that there may be persons aggrieved other than the owner. Thus a lessor or mortgagee may be owner as defined by section 3, *ante*. In such a case the lessor or mortgagee might be aggrieved by an order for the execution of works on premises in which they had an interest.

(*i*) This does not give the owner a month to make up his mind if the quarter sessions happen within that period. But he will be allowed a reasonable time. See *Reg.* v. *Surrey JJ.*, 6 Q. B. D. 100; 50 L. J. M. C. 10; 43 L. T. (N.S.) 500; 29 W. R. 260; 45 J. P. 93.

(*k*) It does not appear that the grounds of appeal are in any way restricted to the objections taken before the local authority. Indeed, the appeal is independent of any such objections, and exists whether objections have been taken or not. See, however, the next section, which implies that the particular ground of appeal therein referred to shall have been made the subject of an objection by the owner.

(*l*) *Certiorari* is not now necessary: 42 & 43 Vict. c. 49, s. 40. Since the passing of that Act the practice is for the solicitor to give notice to the clerk

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Fourthly, that pending any appeal no work shall be done nor proceedings taken under any order until after the determination of such appeal, or it shall cease to be prosecuted.

Owner may appeal where decision of local authority is against him.

X. If the owner appeal from the decision of the local authority upon the objection that he is not responsible for the state and condition of his premises (*a*), he shall be bound to give notice of his appeal, and a statement in writing of the ground thereof, to the person or persons, or to the parish or district, alleged by him to be the occasion of his premises being in such a state or condition as to render them liable to be reported upon under the provisions of the Act, and such person or persons, or parish or district, may appear before the court, and be heard against his or their alleged liability.

Where local authority decide in favour of owner, reports and notices to be sent to parties liable.

XI. If the local authority shall decide in favour of the objection of the owner of the premises that some other person or persons, or that the parish or district in which the premises are situate, is or are responsible for the state and condition of his premises, the local authority shall forthwith send copies of the reports of the officer of health and of the surveyor or engineer (*b*) to such person or persons, or to the officer of such parish or district (*c*), together with notice of his or their alleged liability, and shall appoint a time and place for hearing the parties so alleged to be liable, and give notice thereof to the said parties and also to the owner of the premises, and the local authority shall make such order thereupon as to them shall seem just, and the same shall be subject to appeal in manner aforesaid (*d*).

On representation by householders that disease exists in any houses, officer of health to inspect and report.

XII. If and whenever any four or more householders living in or near to any street (*e*) by writing under their hands represent to the officer of health that in or near that street any premises are in a condition or state dangerous to health so as to be unfit for human habitation (*f*), he shall forthwith inspect the premises, and report thereon; but the absence of any such representation shall not excuse him from inspecting any premises, and reporting thereon.

If local authority neglect to

XIII. In the event of the local authority declining or neglecting for the space of three calendar months after receiving such report to take

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of the peace that he requires the case to be sent up to the Crown Office, and the clerk of the peace must transmit the case accordingly. *Clark* v. *The Assessment Committee of Alderbury Union*, 29 W. R. 334; 45 J. P. 359.

(*a*) See note (*k*), *ante*, p. 47.

(*b*) See sections 5 and 6, *ante*.

(*c*) Who is the officer of a parish or district? If the district is that of a local authority the clerk would, no doubt, be the proper officer. It may be asked, in what way a district could be liable under any circumstances? Probably, the most frequent case that will arise will be that when the unsanitary condition of the premises is alleged by the owner to be the result of defects in sewers or want of sewers. It will be remembered that local authorities are bound to provide sewers and to keep them in repair. See the Public Health Act, 1875, ss. 15, 19, 299.

(*d*) See section 9, *ante*.

(*e*) See the definition of a street in section 3, *ante*.

(*f*) See section 5, note (*e*).

any proceedings to put this Act in force, the householders who signed such representation may address a memorial to the Secretary of State (*g*) stating the circumstances, and asking that an inquiry be made, and upon receipt of such memorial the said Secretary of State may direct the local authority to proceed under the provisions of the Act, and such direction shall be binding on the local authority (*h*).

enforce Act, Secretary of State may compel it to proceed.

XIV. Within three calendar months after the service on the owner of the order by the clerk of the local authority, or, in the case of appeal, within one calendar month after the order of quarter sessions, or, in the event of a further appeal, within one calendar month after the order of the court of final appeal, the persons so served with the order of the local authority shall each of them signify in writing to the clerk of the local authority whether he is willing to effect the works required to be executed; and where two or more persons shall so signify, the right of effecting the works shall be given first to the person whose ownership is first or earliest in title (*i*).

Owner to signify to clerk of local authority whether he is willing to execute specified works.

XV. Where the owner of the premises and his residence or place of business are known to the local authority, it shall be the duty of the clerk of the local authority, if the owner be residing or have a place of business within the district of such local authority, to give any notice by this Act required to be served on him to the owner, or for him, to some inmate of his place of residence or business within the place; and if he be not residing within such district, or has no place of business therein, then to send the notice by post in a registered letter addressed to the owner at his place of residence or business; provided that the notice served upon the agent of the owner shall be deemed notice to the owner (*k*).

Service of notice on owner whose name and residence are known.

XVI. Where the owner of the premises or his residence or place of business is not known to, or after diligent inquiry cannot be found by the local authority, then the clerk of the local authority may serve the notice by leaving it, addressed to the owner, with some occupier of the premises, or if there be not an occupier, then by causing it to be put up on some conspicuous part of the premises.

Service of notice on owner whose name or residence is not known.

XVII. Every notice required to be given by the clerk of the local authority by this Act shall be in writing or print, or partly in writing

Notices to be signed by the local authority.

(*g*) All the powers and duties vested in, or imposed upon the Secretary of State by this Act, so far as these powers and duties relate to England, are, by the 34 & 35 Vict. c. 70, transferred to, and imposed on, the Local Government Board. See the Act (*Lumley*, p. 764).

(*h*) The direction may be enforced by *mandamus*, if necessary.

(*i*) It is here assumed that there may be several persons each fulfilling the description of *owner*. Thus, there may be freeholder, lessee, and lessee at improved rental, all interested in the property, and all owners as defined by section 3. In such a case the freeholder would have the earliest title, and the right of effecting the works would have to be given to him first if he desired it. It will be seen hereafter that on his executing the works he would be entitled to a rentcharge under section 25, *post*.

(*k*) As to the form and authentication of notices, see sections 17 and 34, *post*,

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and partly in print, and shall be signed by the clerk of the local authority or deputy appointed by him (*a*).

Local authority to require owners to execute works as in specification.

XVIII. The owner on whom the local authority shall have imposed in the first instance (*b*) the duty of executing the work shall, within two calendar months thereafter, commence the works as shown on the plan and described in the specification, and shall diligently proceed with and complete the same in conformity with the specification to the satisfaction of the surveyor or engineer appointed by the local authority; and if such owner shall fail therein, the local authority shall require the owner next in order as aforesaid to execute the said works, and in case of his default shall require the remaining owners in their order as aforesaid; and if all such owners shall make default, the local authority shall, as the case may seem to them to require, either order the premises to be shut up or to be demolished, or may themselves execute the required works in conformity with the specification.

Proceedings of local authority in case owners neglect.

Provision in case local authority themselves execute the works.

XIX. Where the local authority themselves execute the works, they may apply to the Court of Quarter Sessions having jurisdiction over the place of which they are the local authority for an order charging on the premises on which the works have been executed the amount of all costs, charges, and expenses that have been incurred by such authority in or about the execution of such works, including the costs of obtaining the order; and the Court of Quarter Sessions, when satisfied of the amount so expended, shall make an order accordingly, charging on the premises the amount of such costs, charges, and expenses, together with interest at the rate of four pounds per cent. per annum, and such order shall be filed and recorded in manner hereinafter mentioned, and thereupon the amount of principal and interest thereby secured shall be a charge on the house, bearing interest at four per centum, and having priority over all other estates, incumbrances, and interests whatsoever, and the local authority shall, for the purpose of obtaining satisfaction of the moneys so charged, or of any interest thereon, be deemed to be a mortgagee of an absolute estate in the house, and shall be invested with all the powers conferred on mortgagees by Part II. of the Act of the session of the twenty-third and twenty-fourth years of the reign of Her present Majesty, chapter one hundred and forty-five (*c*), and in Scotland such order shall be recorded in the appropriate register of sasines.

Local authority to pay com-

XX. If the requirements of the order involve the total demolition and not the improvement of the premises specified therein, the owner

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(*a*) This must refer to a deputy appointed for the special purpose of signing the notices in question, or all notices under the Act.

(*b*) It has been pointed out that there may be several persons answering to the description of owner, and that if more than one of them is willing to execute the works the earliest in title is to be preferred. This section provides for the case where one owner has undertaken to execute the works and has failed to carry out his undertaking. In such a case the next in order of title is to be required to do the work. If all the owners make default the local authority may order the premises to be shut up or demolished, or may themselves execute the works.

(*c*) Now the Conveyancing Act, 1881. See sections 19—24 of that Act for the powers of a mortgagee. See the similar provisions of the 29 Vict. c. 28, s. 7, *ante*, and the note to that section.

shall, within three months after service of the order, proceed to take down and remove the premises, and if such owner fail therein, then the local authority shall proceed to take down and remove the same; and the local authority shall sell the materials, and, after deducting the expenses incident to such taking down and removal, pay over the balance of moneys, if any, to the owner (*d*).

Compensation when total demolition required.

XXI. Where at the time of making the order the premises specified therein, or any part thereof, are or is subject to any tenancy from year to year, or for a year or for any less term, the local authority shall give notice to every such tenant, stating the time at which such tenancy will be determined (*e*).

Determination of tenancies.

XXII. Provided always, that nothing in this Act contained shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any premises in respect of which any order shall be made by a local authority; and if any owner shall be obliged to take possession of any premises in order to comply with any order made under the provisions of this Act, such entry or taking possession shall not affect his right to avail himself of any such breach, non-observance, or non-performance that may have occurred prior to his so taking possession (*f*).

Remedies of owner for breach of covenant, &c., not to be prejudiced.

XXIII. If the order be that the premises require improvement, the owner, including therein the owner of the first estate of inheritance (*g*), if he think fit, may, instead of effecting the works required by the plan and specification, take down the premises; but in every such case, and also in the event of the owner desiring to retain the site of the premises required by the order to be totally demolished, no house or other building or erection shall be erected on all or any part of the site of the premises so taken down which shall be injurious to health; and the local authority may at any time make an order upon the owner to abate

Owner instead of effecting improvements may take down premises.

(*d*) The marginal note is misleading. The local authority are not to pay compensation, but only to hand over to the owner the balance of moneys in their hands arising from the sale of the materials, which are the owner's property. The owner cannot now require the local authority to purchase the premises. See 48 & 49 Vict. c. 72, s. 4, *ante*, p. 17. For the recovery of the expenses where the local authority execute works, see 42 & 43 Vict. c. 64, s. 9, *post*.

(*e*) This section requires the local authority to determine all tenancies of the premises where the interests of the tenants are of the limited kind specified. Notice that this must be done, whether the order is for the execution of works or for the demolition of the premises, and without regard to whether the works could be done notwithstanding the continued occupation of the premises. This seems to be a useful provision, if regarded only as a power given to the local authority. But as a duty which must be carried out it is unnecessary, and will be found oppressive in many cases.

(*f*) The meaning of this section is best explained by an illustration. If a freeholder is called upon to do work which his lessee, holding on a repairing lease, ought to have done under his covenant, then, although the freeholder may have to take possession in order to do the work, such entry on his part will not affect his right of action against the lessee on the covenant.

(*g*) That is, the earliest in title. See section 14, note (*i*), *ante*.

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or alter the said house, building, or erection, as the case may require; and in the event of non-compliance with such order the local authority may, at the expense of the owner thereof, abate or alter any house or other building or erection at any time wholly or partly erected contrary to the provisions of this section (*a*).

Application may be made to justices where more than one owner of premises included in order under Act, and any one owner neglects to comply with such order.

XXIV. When there are two or more owners of any premises (*b*), and it appears to any two justices in petty sessions, on application of any owner of such premises, that the interest of the applicant in the premises will be prejudiced by the neglect and default of any other owner to deal with the premises in conformity with the order so made, it shall be lawful for such justices, if the applicant undertake to their satisfaction to bring the premises into conformity with such order, to make an order empowering the applicant forthwith to take possession of the premises, and to do all such works as may be necessary for bringing the same into conformity with such order, and within such time as shall be fixed by such justices, and on non-compliance by such last-mentioned applicant with his undertaking it shall be lawful for the justices to make a like order in favour of any other owner.

Grant of annuity to owner on completion of works.

XXV. Where any owner has completed any works required to be executed by a local authority in pursuance of this Act, he may on the completion thereof apply to the local authority for a charging order charging on the premises on which the works have been executed an annuity as compensation to the owner for the expenditure incurred by him in executing such works, and shall produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts and vouchers for such works, and the local authority, when satisfied that the owner has duly executed such works, shall make a charging order accordingly.

The annuity charged shall be a sum of six pounds for every 100*l.* of such expenditure, and so in proportion for any less sum, to commence from the date of the order, and to be payable for a term of thirty years to the owner named in such order, his executors, administrators, or assigns.

Charging orders made under this Act shall be made according to the Form marked A. in the Second Schedule hereto annexed, or as near thereto as the circumstances of the case will admit.

The costs of obtaining the order to be allowed by the local authority shall be deemed to be part of the expenditure incurred by the owner.

Incidence of charge.

XXVI. Every annuity created by a charging order under this Act shall be a charge on the premises comprised in the order, having priority over all existing and future estates, interests, and incumbrances, with the exception of quit rents and other charges incident to tenure, tithe commutation rentcharges, and any charges created under any Act authorising advances of public money; and where more annuities than one are chargeable under this Act on any premises, such annuities shall, as between themselves, take order according to their respective dates.

(*a*) This section applies to the site of any premises purchased by the local authority which the owner has elected to retain. See 42 & 43 Vict. c. 64, s. 8, *post*.

(*b*) See section 14, note (*i*), *ante*.

Charges recoverable as rentcharges in lieu of tithes.

XXVII. Every annuity charged on any premises by a charging order under this Act may be recovered by the persons for the time being entitled to the same by the same means and in the like manner in all respects as if it were a rentcharge granted by deed out of the premises by the owner thereof (*c*).

An order to be evidence of compliance with Act.

XXVIII. An order made in pursuance of this Act charging an annuity on any premises shall be, both at law and in equity, conclusive evidence that all notices, acts, and proceedings by this Act directed with reference to, or consequent on the obtaining such order, or the making such charge, have been duly served, done, and taken, and that such charge has been duly created, and that it is a valid charge on the premises declared to be subject thereto.

Registry of charging order on premises in Middlesex and Yorkshire.

XXIX. Every charging order made in pursuance of this Act relating to premises in Middlesex or Yorkshire shall be registered in the same manner respectively as if such charge were made by deed by the absolute owner of such lands without the aid of this Act; and a copy of every such charging order of the certificate of such surveyor or engineer as aforesaid, together with a copy of the accounts as passed by the local authority, and which copies shall be certified to be true copies by the clerk of such local authority, shall, within six months after the date of such charging order, be deposited with the clerk of the peace of the county in which the premises are situate, who shall be entitled to a fee of ten shillings for filing and recording the same (*d*); and every charging order made in pursuance of this Act relating to premises in Scotland shall be recorded in the appropriate register of sasines.

Assignment of charge.

XXX. The proprietor of any charge may, by deed under seal, stamped with the same *ad valorem* stamp as if it were an assignment of a charge created by deed, assign the benefit of the charging order, or of any portion of the charge comprised therein, to any other person; and on such assignment being executed the assignee shall have the same rights under the order as the proprietor would have had if no such assignment had been executed; and any assignee of a charging order may, by deed stamped in manner aforesaid, assign the charge to any other person. Any assignment of a charging order may be in the Form marked B. in the Schedule hereto, or in any other convenient form.

As to expenses of local authority.

XXXI. All expenses incurred by the local authority in pursuance of this Act shall be defrayed by them out of a special local rate (*e*), not

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(*c*) The marginal note is misleading. No mention is made of tithes or tithe rentcharge in the section. The result is important, for had the remedy been limited to that existing for the recovery of tithe rentcharges, the owner would have had no power of sale to enforce payment of his charges. See *Bailey* v. *Badham*, 30 Ch. D. 84; 49 J. P. 660. The remedies for the recovery of the rentcharge under this section will now be those prescribed by 44 & 45 Vict. c. 41, s. 44.

(*d*) *Quære*, is this a general provision, or is it limited to Middlesex and Yorkshire? Notwithstanding the reference to "such charging order," &c., it is submitted that the provision is of general application.

(*e*) As the local rate is the general district rate, in the case of an urban authority (see 42 & 43 Vict. c. 64, Schedule I., *post*), the expenses will be defrayed out of a general district rate specially and separately made to defray such expenses.

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exceeding twopence in the pound in any year, which they are hereby empowered to assess and levy for the purposes of this Act.

Power to Public Works Loan Commissioners to advance moneys to local authority.

XXXII. The Public Works Loan Commissioners, as defined by the Public Works Loan Act, 1853 (*a*), may, if they think fit, lend to any local authority, and any local authority may borrow from the said commissioners, such sums as the said authority may require for the purposes of this Act, but the amount of every loan shall be sanctioned by the Lords Commissioners of the Treasury.

Service of notice on the local authority.

XXXIII. Any summons, notice, writ, or other proceeding at law or in equity, or otherwise, in relation to carrying into effect the objects and purposes of this Act, required to be served upon the local authority, may be lawfully served by delivering the same to the clerk of the local authority, or leaving the same at his office with some person employed there by him (*b*).

Notices served by local authority to be signed by the clerk.

XXXIV. Any notice, demand, or other written document served by the local authority for the purposes of this Act shall be signed by the clerk of the local authority (*c*).

Penalty for obstructing officer of health, &c., in execution of Act.

XXXV. Where any person at any time obstructs the officer of health or other person acting in the performance of anything which the local authority or their officers respectively are by this Act required or authorized to do, every person so offending shall for every such offence forfeit not exceeding twenty pounds (*d*).

Penalty for preventing execution of Act.

XXXVI. If the occupier of any premises prevents the owner thereof, or if the owner or occupier of any premises prevents the officer of health, or their officers, agents, servants, or workmen, from carrying into effect with respect to the premises any of the provisions of this Act, after notice of the intention so to do has been given to the occupier, or, as the case shall be, to the owner, any justice on proof thereof may make an order in writing requiring the occupier to permit the owner, or, as the case shall be, requiring the owner or occupier, or both, to permit the officer of health, or the local authority, and their officers, agents, servants, and workmen, to do all things requisite for carrying into effect with respect to the premises the provisions of this Act ; and if at the expiration of ten days after the service of such order of the justice the occupier or owner fails to comply therewith, every person so offending shall for every day during which the failure continues forfeit not exceeding twenty pounds (*d*) ; provided that during any such failure by the occupier the owner, unless assenting thereto, shall not be liable to the forfeiture.

(*a*) Now the Public Works Loan Act, 1875 (38 & 39 Vict. c. 89, p. 828). See section 55 of that Act. As to the interest on loans effected before December 31st, 1888, see 48 & 49 Vict. c. 72, s. 6, *ante*, p. 19.

(*b*) Notice that no provision is made for service by post.

(*c*) See as to the service of notices on owners, sections 15 and 26, *ante*.

(*d*) For the recovery of this penalty, see section 38, *post*.

Appearance of local authority.

XXXVII. The local authority may appear before any judge, justices, borough magistrates, sheriff, or sheriff substitute, by their clerk (*e*), and any company or body corporate may appear before the said magistrate or magistrates by any member of their board of management.

Recovery of penalties.

XXXVIII. Penalties under this Act may be recovered before two justices in manner directed by an Act passed in the session holden in the eleventh and twelfth years of the reign of Her Majesty Queen Victoria, chapter forty-three (*f*), intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace out of Sessions within England and Wales with respect to summary Convictions and Orders," or any Act amending the same, and in Scotland by summary complaint before the sheriff, sheriff substitute, or two justices, or in boroughs before the magistrates, in manner provided by "The Summary Procedure Act, 1864," and in Ireland in manner directed by "The Petty Sessions (Ireland) Act, 1851," and any Act amending the same.

Application of Act to Scotland.

XXXIX. For the purpose of adapting this Act to Scotland the following alteration shall be made; that is to say,

1. "The Lands Clauses Consolidation Act (Scotland), 1845," shall be substituted for "The Lands Clauses Consolidation Act, 1845;"
2. All the judicial powers given to justices in quarter sessions by this Act shall be exercised by sheriffs of counties or sheriff substitutes; and wherever by this Act an appeal is given to the Court of Quarter Sessions, and thence to the Court of Queen's Bench, such appeal shall be to the sheriff of the county, and from him to the court of session in the usual manner.

Application of Act to Ireland.

XL. For the purpose of adapting this Act to Ireland the words "The Lands Clauses Consolidation Act, 1845," shall mean "The Railways Act (Ireland), 1851," and the several Acts amending the same.

Jurisdiction of certain magistrates.

XLI. Any act, power, or jurisdiction hereby authorized to be done or exercised by two justices may be done or exercised by the following magistrates within their respective jurisdictions; that is to say: As to England, by any metropolitan police magistrate or other stipendiary magistrate sitting alone at a police court or other appointed place, or by the lord mayor of the city of London, or any alderman of the said city, sitting alone or with others, at the Mansion House or Guildhall; as to Scotland, by the sheriff or sheriff substitute, or by any two magistrates of a burgh; and as to Ireland, by any one or more divisional magistrates of police in the police district of Dublin, and elsewhere by two or more justices of the peace in petty sessions.

(*e*) Notice, not by any officer as such, other than the clerk.

(*f*) With this Act has now to be read the Summary Jurisdiction Acts, 1879 and 1884.

SCHEDULES.

First Schedule (*a*).

Second Schedule.

Form marked A.

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The Artizans and Labourers Dwellings Act, 1868.

County of , parish of , No.

Charging Order.

Insert description of local authority.

The being the local authority under the above-mentioned Act, do, by this Order under their hands and seal, charge the inheritance or fee of the premises mentioned in the Schedule hereto with the payment to of the sum of pounds, payable yearly on the day of for the term of years, and being in consideration of an expenditure of pounds incurred by him in respect of the said premises.

Schedule.

Insert description of premises charged.

Form marked B.

Form of Assignment of Charge.

To be endorsed on Charging Order.

Dated the day of .

I, the within-named in pursuance of the Artizans and Labourers Dwellings Act, 1868, and in consideration of pounds this day paid to me, hereby assign to the within-mentioned charge.

(Signed)

(*a*) This schedule was repealed by the 42 & 43 Vict. c. 64, s. 13, *post*.

THIRD SCHEDULE.

I. *Form of Order by Court of Quarter Sessions or Petty Sessions, or Court of Burgh Magistrates in Scotland.*

Appndx.

Be it remembered, that on the day of 18 , upon the report hereinafter mentioned, we, the undersigned justices, assembled at the Court of Quarter Sessions holden in and for the county of , *or* assembled in petty sessions for the division or district of the borough or county of , *or* members of the court of burgh magistrates for [*as the case may be*], do hereby order and determine that one or more house or houses or buildings situate in a certain court or alley within the borough or burgh, known or designated as court or alley [*or otherwise distinguishing the premises*], and specified in the report of the officer of health for the dated the day of 18 , is or are unfit for human habitation, and ought to be improved or demolished [*as the case may be*], in pursuance of "The Artizans and Labourers Dwellings Act, 1868."

II. *Form of Notice by Clerk of the Peace, Clerk of the Justices, or Clerk of the Court of Burgh Magistrates in Scotland to Clerk of Local Authority.*

Artizans and Labourers Dwellings Act, 1868.

I, *A.B.*, clerk of the peace *or* clerk of the justices [*or* clerk of the court of burgh magistrates] for the , do hereby certify, that on the day of 18 , the justices assembled at the Court of Quarter Sessions, *or* assembled at the petty sessions for the [*or* court of the burgh magistrates] [*as the case may be*], made an order, of which the following is a true copy :

[*Here give a Copy of the Presentment, Form* I.]

As witness my hand, this day of in the year of our Lord 18 .

(Signed) (*A.B.*) clerk of the peace *or* clerk of the justices for
[*or* clerk of the court of burgh magistrates]

To the clerk of the of .

THE ARTIZANS AND LABOURERS DWELLINGS ACT (1868) AMENDMENT ACT, 1879.

(42 & 43 Vict. Cap. 64.)

An Act to extend the powers of the Artizans Dwellings Act of 1868, *by provisions for compensation and rebuilding.* [15th August, 1879.]

Appndx.

31 & 32 Vict. c. 130.

Whereas it is expedient to extend and amend the provisions of the Artizans and Labourers Dwellings Act, 1868:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title, and construction of Act. 31 & 32 Vict. c. 130.

I. This Act may be cited as the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, and shall, so far as is consistent with the tenor thereof, be construed together with the Artizans and Labourers Dwellings Act, 1868 (hereinafter referred to as "the Act of 1868"), as one Act.

Application of Act, and definition of "local authority," "local rate," and "clerk of local authority." 31 & 32 Vict. c. 130.

II. The Act shall apply only to the places named in the first column of Table (A.) in the First Schedule annexed hereto, and "local authority," "local rate," and "clerk of local authority" shall mean the "bodies of persons," "rate," and "officer" in that table in that behalf mentioned; and the said table, and the explanation annexed thereto, shall be of the same force as if they were enacted in the body of the Act of 1868 and this Act (*a*).

Officer of health. 31 & 32 Vict. c. 130. 38 & 39 Vict. c. 55. 41 & 42 Vict. c. 52.

III. The term "officer of health" as used in the Act of 1868, shall, as respects any urban sanitary district in England, mean the medical officer of health appointed by the urban sanitary authority of the district under the Public Health Act, 1875 (*b*), and as respects any urban sanitary district in Ireland shall mean the medical officer of health appointed by the urban sanitary authority of the district under the Public Health (Ireland) Act, 1878, and shall not include any other officer.

8 & 9 Vict. c. 18, and 23 & 24 Vict. c. 106, incorporated.

IV. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, except the provisions of those Acts with respect to the purchase and taking of lands otherwise than by agreement, and with respect to the entry on lands

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(*a*) For the purposes of this work it is only necessary to call attention to the application of these Acts to urban districts beyond the metropolis. In such districts the urban sanitary authority are the local authority, and the local rate is the fund or rate out of which general expenses are defrayed under the Public Health Act, 1875, *i. e.*, the district fund and general district rate. See sections 209, 210 of that Act.

(*b*) See sections 189, 191 (*Lumley*, p. 218).

by the promoters of the undertaking, and save so far as any of the provisions of those Acts respectively are expressly varied by or are inconsistent with the provisions of this Act, are incorporated with the Act of 1868 as amended by this Act, and for the purpose of such incorporation the Act of 1868, as amended by this Act, shall be deemed to be the special Act, and the local authority to be the promoters of the undertaking (*c*). 31 & 32 Vict. c. 130.

* * * * *

VII. In all cases in which the amount of any compensation is, in pursuance of this Act, to be settled by arbitration, the following provisions shall have effect; (namely), Provisions as to arbitration.

(1.) The amount of compensation shall be settled by an arbitrator to be appointed and removable by the Local Government Board;

(2. In settling the amount of any compensation—

(*a.*) The estimate of the value of the premises shall be based on the fair market value as estimated at the time of valuation being made of such premises, and of the several interests in such premises, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their existing state, and to the state of repair thereof, *and all circumstances affecting such value* (*d*), and without any additional allowance in respect of compulsory purchase; and

(*b.*) The arbitrator shall have regard to and make an allowance in respect of any increased value which, in his opinion, will be given to other premises of the same owner by the alteration or demolition by the local authority of the premises;

(3.) On payment or tender to the person entitled to receive the same of the amount of compensation agreed or awarded to be paid in respect of the premises, or on payment thereof in manner prescribed by the Lands Clauses Consolidation Act, 1845, the owner shall, when required by the local authority, convey his interest in such premises to them, or as they may direct; and in default thereof, or if the owner fails to adduce a good title to such premises to the satisfaction of the local authority, it shall be lawful for the local authority, if they think fit, to execute a deed poll in such manner, and with such consequences, as are mentioned in the Lands Clauses Consolidation Act, 1845 (*e*); 8 & 9 Vict. c. 18. 8 & 9 Vict. c. 18.

(4.) Sections thirty-two, thirty-three, thirty-five, thirty-six, and thirty-seven of the Lands Clauses Consolidation Act, 1845, shall 8 & 9 Vict. c 13.

(*c*) The Lands Clauses Acts are the 8 Vict. c. 18, p. 505; 23 & 24 Vict. c. 106, p. 681; 32 & 33 Vict. c. 18, p. 707; 46 & 47 Vict. c. 15, p. 984.
Sections 5 and 6 were repealed by the 48 & 49 Vict. c. 72, *ante*.
(*d*) These words are repealed by the 45 & 46 Vict. c. 54, s. 9, *post*
(*e*) See 8 Vict. c. 75 (*Lumley*, p. 524).

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apply, with any necessary modifications, to an arbitration and to an arbitrator appointed under this Act (*a*);

(5.) The arbitrator may, by one award, settle the amount or amounts of compensation payable in respect of all or any of the premises included in one or more order or orders made by the local authority;

(6.) In the event of the death, resignation, or incapacity, refusal, or neglect to act of any arbitrator before he shall have made his award, the Local Government Board may appoint another arbitrator, to whom all documents relating to the matter of arbitration which were in the possession of the former arbitrator shall be delivered;

(7.) The arbitrator may, where he thinks fit, on the request of any party by whom any claim has been made before him, certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority (*b*); and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per centum per annum for any time during which the same remains unpaid after such seven days as aforesaid, but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of such claim before the appointment of the arbitrator;

(8.) The award of an arbitrator shall be final and binding on all parties (*c*).

Application of 31 & 32 Vict. c. 130, s. 23, to site of purchased premises.

VIII. Section twenty-three of the Act of 1868 shall apply to the site of any premises purchased by a local authority which the owner has elected to retain under the provisions of this Act.

Recovery of expenses incurred by local authority in executing works.

IX. Where the local authority, on default of the owner of any premises, themselves execute the required works, they may sell the old materials and retain the proceeds towards the expenses incurred by them in executing such works, and may recover the balance of such expenses from such owner as a debt due from him by action in any court of competent jurisdiction (*d*).

(*a*) These sections will be found at pp. 513, 514. They relate to the power of the arbitrator to call for books and papers in the possession of parties; to the declaration to be made by the arbitrator; to the costs of the arbitration; to the delivery of the award to the local authority (see section 4, *ante*); to the making of the submission a rule of court; and to the validity of the award, notwithstanding error in form.

(*b*) This must be read subject to the latter part of the sub-section, which corresponds to the provisions contained in the 8 Vict. c. 18, s. 34. This provision will avoid the necessity for a taxation under 32 & 33 Vict. c. 18, s. 1, p. 707.

(*c*) See note (*q*) to section 180 of the Public Health Act, 1875, p. 214,

(*d*) Compare section 20 of the Act of 1868, *ante*, which applies only when the premises are demolished, and the value of the materials exceeds the expenses incurred.

The expression "court of competent jurisdiction" shall, for the purposes of this section, be read and have effect as if the debt herein referred to were a simple contract debt, and not a debt or demand created by statute (*e*).

Disposal of land acquired by local authority under 30 & 31 Vict. c. 130.

X. Any land or premises acquired by any local authority under the Act of 1868 and this Act may from time to time be sold, let, and disposed of in like manner as any other lands acquired for sanitary purposes by such authority, and not needed for the purposes for which they were acquired; but in cases where the approbation of any government department is required for any such disposal, then only with that approbation (*f*).

Local authority may dedicate land as highway, &c. 30 & 31 Vict. c. 130.

XI. A local authority may, where they so think fit, dedicate any land acquired by them under the authority of the Act of 1868 and this Act as a highway or other public place.

Metropolitan Board empowered to enforce Act in case local authority fail to do so.

XII. In the event of any local authority within the metropolis declining or neglecting for the space of three months after receiving a notice from the Metropolitan Board of Works (hereinafter called the board) requiring such local authority to put in force the provisions of this Act, in respect of any premises described in such notice, then and in such case all the powers vested in the local authority under this Act, so far as relates to any such premises, shall become vested in the said board, and the board shall have power so far as relates to any such premises to act in all respects for the purposes of this Act as though they were the local authority, and all expenses incurred by the board under this Act may be recovered by the board from and shall upon demand be paid by the local authority out of the local rates which they are authorized to make or apply for the purpose of defraying expenses incurred by them under this Act, and the amounts so payable to the board may and shall be included in the precepts from time to time issued by the board under the Metropolis Management Acts to the local authority (*g*).

Repealing 31 & 32 Vict. c. 130, s. 2, and Sch. I.

XIII. Section two of the Act of 1868 and the First Schedule to that Act are hereby repealed.

(*e*) The High Court and the county courts in cases when the amount is less than 50*l.* will be courts of competent jurisdiction.

(*f*) See sections 176, 177 of the Public Health Act, 1875. Under the latter section the consent of the Local Government Board is required for the letting of surplus lands by a local authority. With regard to the opening words of the section, it is to be observed that under the Act of 1868, lands could not be acquired by a local authority. Section 5 of this Act did enable a local authority to acquire property, but it is now repealed. Land may, however, be acquired under 45 & 46 Vict. c. 54, Part II., *post*, which is to be read as one with the Acts of 1868 and this Act.

(*g*) Section 12 and sections 14—19 inclusive, relate to the metropolis only. The power given to the Metropolitan Board of Works is in addition to that contained in the 31 & 32 Vict. c. 130, s. 13, which enables a Secretary of State to compel a defaulting authority to enforce the Act. Section 12 is amended by the 42 & 43 Vict. c. 64, s. 12, *post*, which enables the board of guardians to set in motion the Metropolitan Board of Works.

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Appropriation of property acquired by local authority.

XIV. In the metropolis the local authority or their lessees shall hold all property acquired by them under this Act (*a*) upon trust to carry into effect some one or more of the purposes thereof:

The purposes of this Act shall in the metropolis be deemed to be—

First, the providing by the construction of new buildings, or the repairing or improvement of existing buildings, the labouring classes with suitable dwellings situate within the jurisdiction of the local authority:

Second, the opening out of closed or partially closed alleys or courts inhabited by the labouring classes, and the widening of the same by pulling down any building, or otherwise leaving such open spaces as may be necessary to make such alleys or courts healthful (*b*):

But subject to the aforesaid trust, the local authority or lessees may from time to time sell, exchange, lease, or otherwise dispose of any premises acquired by them under this Act: Provided that if any property acquired by the local authority under this Act shall not within seven years after the acquisition thereof be disposed of by way of absolute sale or exchange, or by lease for a period of not less than ninety-nine years, or be effectually dealt with by way of public improvement, then and in such case the property so acquired may be sold by the order of one of Her Majesty's principal Secretaries of State, by public auction or public tender, with full power to fix a reserved price and subject to such terms and conditions as the said Secretary of State shall deem proper, and the proceeds of such sale, after deducting the whole of the expenses attending the same, shall be paid to the local authority, to be by them applied to the purposes of this Act (*c*), and a receipt signed by the said Secretary of State for the amount of the purchase-money shall absolutely vest such property in the purchaser for the whole estate and interest of the local authority therein, subject to the before-mentioned terms and conditions.

Lessee acquiring property under this Act to execute works to satisfaction of surveyor.

XV. Every lessee who in the metropolis shall acquire any property under this Act shall forthwith, at his own costs, charges, and expenses, proceed to execute thereon, to the satisfaction of the surveyor of the local authority, the works shown on the plans referred to in the specifications prepared by the local authority, and such other works (being for some one or more of the purposes of this Act) as may have been agreed upon between the local authority and the lessee; and if the lessee shall at any time, in the opinion of the surveyor of the local authority, fail to exercise due diligence in the execution of the works, the local authority may, by themselves, their contractors, servants, workmen, and agents, enter upon the premises and execute the works so far as the same shall be incomplete, and reimburse themselves all costs, charges, and expenses incident to the execution of such works by sale of the old materials, so far as the same may extend, or may recover from the parties making default the amount of such costs, charges, and expenses as a debt in Her Majesty's High Court of Justice, and shall also have an express charge upon the premises in respect of such amount, which charge may be realized by a sale of the premises, or any part thereof.

(*a*) See note (*f*), *ante*, p. 61.

(*b*) The 45 & 46 Vict. c. 54, s. 8, *post*, gives power to the local authority to acquire buildings for the opening out of alleys, &c.

(*c*) That is, the purposes previously prescribed by the section.

XVI. In the metropolis the local authority may also, by the resolution empowering any lessee to acquire property under this Act, require such lessee to give such security as the local authority shall think fit for the due execution by the lessee of the works to be done by them. Lessee to give security for execution of works.

XVII. If any lessee shall not, within three calendar months after he shall have obtained possession of any part of the premises in the metropolis, commence the execution of the works to be done by him, or if he shall not complete the same to the satisfaction of the local authority within one year after obtaining such possession, or within such extended time as the local authority shall by resolution determine, then the premises, together with all building materials, plant, tools, and other articles and effects thereon, shall be absolutely forfeited to and vest in the local authority, and they shall thenceforth hold the same for the purposes of this Act (*d*). Premises, &c., to be forfeited on lessee not completing works within specified time.

XVIII. Every local authority shall, in the metropolis, every year present to one of Her Majesty's principal Secretaries of State, and in all other places shall present to the Local Government Board, in such form as he directs, an account of what has been done, and of all moneys received and paid by them during the previous year, with a view to carrying into effect the purposes of this Act. Annual account to be presented by the local authority.

XIX. The local authority in the metropolis may from time to time, with the sanction and approval of one of Her Majesty's Secretaries of State, enter into any contract with any persons or companies for building and for altering and enlarging, repairing, and otherwise improving such workmen's dwellings, forming part of any premises held by the said authority for the purposes of this Act, and for lighting and for supplying the same with water, and for fitting up the same respectively, and for furnishing any materials and things, and for executing and doing any other works and things necessary for the purposes of this Act: which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and true copies of all such contracts shall be entered in books to be kept for the purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the local authority for the purposes of this Act, unless previous to the making thereof fourteen days' notice shall have been given in one or more of the public newspapers published in or circulating within the jurisdiction of the local authority, expressing the intention of entering into such contract, in order that any person willing to undertake the same may make proposals for that purpose, to be offered to the local authority at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the local authority to contract with the person offering the lowest price. Contracts for building, repairing, lighting, watering, &c., workmen's dwellings.

XX. The local authority may from time to time make, alter, and repeal bye-laws for the regulation of the dwellings belonging to them Power of local authority

(*d*) See section 14, *ante*.

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to make bye-laws for regulation of dwelling-houses.

under this Act (*a*), and there may be imposed by such bye-laws a penalty, recoverable in a summary manner (*b*), not exceeding two pounds for any breach of the bye-laws by the tenants or occupiers of the said houses (*c*). A copy of such bye-laws shall be given to every tenant or occupier upon his taking possession of every such dwelling, or of any portion thereof. A bye-law under this Act, and any alteration made therein, and any repeal of a bye-law, shall not be of any validity until it has been submitted to and confirmed by one of Her Majesty's principal Secretaries of State in the case of the metropolis, or by the Local Government Board in the case of all other places.

Expenses of local authority.

XXI. All expenses incurred by the local authority in pursuance of this Act shall be defrayed by them out of the local rate (*d*); and it shall be lawful for the local authority, notwithstanding any limit contained in any Act of Parliament respecting any local rate, to levy such local rate, or any increase of the same, not exceeding twopence in the pound in any year, for the purposes of this Act.

As to loans from Public Works Loan Commissioners.

16 & 17 Vict. c. 40.

XXII. The Public Works Loan Commissioners, as defined by the Public Works Loan Act, 1853, or in the metropolis the Metropolitan Board of Works may, if they think fit, lend to any local authority, and any local authority may borrow from the said commissioners, or in the metropolis from the Metropolitan Board of Works, such sums as the said authority may require for the purposes of this Act, subject to the following regulations:

1. The amount of every loan shall be sanctioned by the Commissioners of the Treasury:
2. No loan shall be made except for the purpose of defraying the cost of building suitable dwellings for the labouring classes or of defraying the cost of purchasing sites, and of building thereon such dwellings:
3. Every loan, with interest thereon at such rate as shall be agreed upon, but not at a less rate of interest than four per centum per annum (*e*), shall be secured by a mortgage, in the form set forth in the Third Schedule hereto, of certain dwellings for the labouring classes erected or improved, or about to be erected or improved, by a local authority, in pursuance of this Act, and of the sites of such dwellings, and the appurtenances, if any, and also by a mortgage of the local rate:
4. Any sum borrowed on mortgage under this section may be paid off by sale of the premises comprised in such mortgage, or by instalments, or otherwise, as may be agreed upon between the parties, so that the period of the borrowing do not exceed seven years:
5. The amount borrowed by any local authority on the mortgage of any buildings and sites, and of the local rate, shall not exceed

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(*a*) Note that these bye-laws are not, like those made under the Labouring Classes Lodging Houses Acts, subject to the provisions of the Public Health Act, 1875.

(*b*) See section 38 of the Act of 1868, *ante*.

(*c*) From this it would seem that the bye-laws must relate only to the tenants and occupiers.

(*d*) See Schedule I.

(*e*) Interest may be 3*l*. 2*s*. 6*d*. per cent. on loans advanced before the 31st December, 1888. 48 & 49 Vict. c. 72, s. 6, *ante*.

the estimated value of the proposed buildings, including the sites thereof, comprised in such mortgage, such value to be ascertained in manner approved by the said Public Works Loan Commissioners:

6. The powers conferred by Act of Parliament on the said Public Works Loan Commissioners in relation to loans shall apply to any loans made under this section (*f*).

Jurisdiction of certain magistrates.

XXIII. Any act, power, or jurisdiction hereby authorized to be done or exercised by two justices may be done or exercised by the following magistrates within their respective jurisdictions; that is to say, as to England, by any metropolitan police magistrate or other stipendiary or police magisirate sitting alone at a police court or other appointed place, or by the Lord Mayor of the city of London, or any alderman of the said city, sitting alone or with others, at the Mansion House or Guildhall; as to Scotland, by the sheriff or sheriff substitute, or by any two magistrates of a burgh; and as to Ireland, by any one or more divisional magistrates of police in the police district of Dublin, and elsewhere by two or more justices of the peace in petty sessions (*g*).

Application of Act to Scotland.

XXIV. In the application of this Act to Scotland, the following provisions shall have effect:

(1.) This Act shall be read and construed as if for the expression "the Local Government Board," wherever it occurs therein, the expression "the Secretary of State" were substituted, and the expression "the Secretary of State" shall mean one of Her Majesty's principal Secretaries of State:

(2.) The term "the Lands Clauses Consolidation Act, 1845," means the Lands Clauses Consolidation (Scotland) Act, 1845; and sections thirty-two, thirty-three, thirty-five, thirty-six, and thirty-seven of the former Act shall mean sections thirty-one, thirty-three, and thirty-four of the latter Act. 8 & 9 Vict, c. 18. 8 & 9 Vict. c. 19.

Application of Act to Ireland.

XXV. In the application of this Act to Ireland the following provisions shall take effect:

(1.) The term "the Lands Clauses Consolidation Act, 1845," means and includes the said Act as the same is amended by the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, the Railways Act (Ireland), 1864, and the Railway Traverse Act: 8 & 9 Vict. c. 18. 23 & 24 Vict, c. 106. 14 & 15 Vict. c. 70. 23 & 24 Vict. c. 97. 27 & 28 Vict. c. 71. 31 & 32 Vict c. 70.

(2.) The term "the Local Government Board" means the Local Government Board for Ireland:

(3.) The term "Public Works Loan Commissioners" means the Commissioners for Public Works in Ireland.

(*f*) See the Public Works Loans Act, a list of which will be found, *ante*, p. 37.

(*g*) This is a repetition of the 31 & 32 Vict. c. 130, s. 41, *ante*.

SCHEDULES.

FIRST SCHEDULE.

TABLE A.

ENGLAND AND WALES.

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Places to which Act applies.	Description of Local Authority.	Description of Local Rate.	Description of Clerk of Local Authority.
The city of London and the liberties thereof. Local Acts { 11 & 12 Vict. c. 163. 14 & 15 Vict. c. 91.	Commissioners of Sewers of the city of London. Local Act, 11 & 12 Vict. c. 163.	The consolidated rate 11 & 12 Vict. c. 163. s. 158.	The clerk to the commissioners. 11 & 12 Vict. c. 163, s. 25.
The metropolis, exclusive of the city of London and the liberties thereof.	The vestry of each parish, or the Board of Works of each district elected under the Metropolis Local Management Act, 1855, and the Acts amending the same within their respective parishes and districts. The Metropolitan Board of Works.	Rate to be levied in the metropolis in the same manner as the rate leviable by law by the vestry or district Board of Works respectively. 25 & 26 Vict. c. 120. s. 5.	Clerk of the vestry or district board.
Boroughs or urban sanitary district as aforesaid.	The urban sanitary authority.	The fund or rate out of which the general expenses of the execution of the Public Health Act, 1875, are defrayed by the urban sanitary authority.	The clerk of the urban sanitary authority.

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SCOTLAND.

Places to which Act applies.	Description of Local Authority.	Description of Local Rate.	Description of Clerk of Local Authority.
Burghs - - -	The magistrates and town council.	The revenue of the burgh or any local rate leviable by the town council.	Town clerk.
Places where police commissioners or trustees exercise the functions of police commissioners acting under the General Police and Improvement (Scotland) Act, or trustees or commissioners acting under any General or Local Act.	The police or other commissioners or trustees.	Property or rate belonging to or leviable by the commissioners or trustees.	Clerk of the commissioners or trustees, or any other officer performing the duties of clerk.

IRELAND.

The city of Dublin -	The Right Honourable the Lord Mayor, aldermen, and burgesses, in council.	The borough fund or borough or improvement rate.	The town clerk.
Towns corporate or boroughs (with the exception of the city of Dublin).	The mayor, aldermen, and burgesses, acting in council.	The borough fund or town fund, or borough rate.	The town clerk.
Towns having town commissioners under 9 Geo. 4, c. 82, or 17 & 18 Vict. c. 103, or any Acts amending the same, or having commissioners or other governing body under any Local Act.	The town commissioners or other governing body.	Any rate leviable by these bodies, or any fund belonging to them applicable in the whole or in part to the making or repairing of sewers within their jurisdiction.	The clerk of the commissioners or other governing body.

Explanation.

For the purposes of this Act the following words shall have the meanings hereinafter assigned to them; (that is to say,)

(1.) "The metropolis" has the same meaning as it has in the Metropolis Management Act, 1855.

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(2.) "Burgh" in Scotland shall mean any place returning or contributing to return members to Parliament, or any place subject to the jurisdiction of a town council.

(3.) "Borough" in Ireland shall mean any place for the time being subject to the Act passed in the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, and intituled "An Act for the Regulation of Municipal Corporations in Ireland."

SECOND SCHEDULE.

I. *Form of Order by Court of Quarter Sessions or Petty Sessions, or Court of Burgh Magistrates in Scotland.*

Be it remembered, that on the day of 18 , upon the report hereinafter mentioned, we, the undersigned justices assembled at the court of quarter sessions holden in and for the county of , *or* assembled in petty sessions for the division or district of the borough or county of , *or* members of the court of burgh magistrates for [*as the case may be*], do hereby order and determine that one or more house or houses or buildings situate in or abutting upon or contiguous to or at the entrance of a certain court or alley within the borough *or* burgh, known or designated as court or alley [*or otherwise distinguishing the premises*], and specified in the report of the officer of health for the dated the day of 18 , is or are unfit for human habitation, and ought to be improved *or* demolished [*as the case may be*], in pursuance of the Artizans and Labourers Dwellings Act, 1868.

II. *Form of Notice by Clerk of the Peace, Clerk of the Justices, or Clerk of the Court of Burgh Magistrates in Scotland to Clerk of Local Authority.*

Artizans and Labourers Dwellings Act, 1868.

I, *A.B.*, clerk of the peace or clerk of the justices [*or* clerk of the court of burgh magistrates] for the , do hereby certify, that on the day of 18 , the justices assembled at the court of quarter sessions, *or* assembled at the petty sessions for the [*or* court of the burgh magistrates] [*as the case may be*], made an order, of which the following is a true copy :—

[*Here give a copy of the Presentment, Form* I.]

As witness my hand, this day of in the year of our Lord 18 .

(Signed) (*A.B.*) clerk of the peace *or* clerk of the justices for
[*or* clerk of the court of burgh magistrates].

To the clerk of the
of

THE ARTIZANS DWELLINGS ACT, 1882.

(45 & 46 Vict. Cap. 54.)

An Act to amend the Artizans and Labourers Dwellings Acts.

[August 18th, 1882.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:— Appndx.

Preliminary.

I. This Act may be cited as the Artizans Dwellings Act, 1882 (*a*). Short title.

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PART II.

VII. This part of this Act shall be construed as one with the Artizans and Labourers Dwellings Act, 1868, and the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, and those Acts and this part of this Act may be cited together as the Artizans Dwellings Acts, 1868 to 1882 (*b*). Construction of Part II. 31 & 32 Vict. c. 130. 42 & 43 Vict. c. 64.

VIII. (1.) If in any place to which the Artizans and Labourers Dwellings Act, 1868, applies (*c*) the officer of health (*d*) finds that any building, although not in itself unfit for human habitation is so situate that by reason of its proximity to or contact with any other buildings it causes one of the following effects, that is to say,— Power to local authority to purchase houses for opening alleys, &c.

(1.) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation; or

(2.) It prevents proper measures from being carried into effect for remedying the evils complained of in respect of such other buildings;

(*a*) Part I. of this Act relates to the third group of the statutes relating to the dwellings of the working classes, and will be found in its place, *post*.

(*b*) With these Acts has now to be read the Housing of the Working Classes Act, 1885, in so far as it amends these Acts. 48 & 49 Vict. c. 72, s. 14 *ante*.

(*c*) The places to which that Act applies are those mentioned in the schedule to the Act of 1879, *ante*, p. 66. It applies, among other places, to all urban sanitary districts.

(*d*) See 42 & 43 Vict. c. 64, s. 3, *ante*, p. 58.

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in any such case, the officer of health shall make a report to the local authority in writing of the particulars relating to such first-mentioned building (in this Act referred to as "an obstructive building"), stating that in his opinion it is expedient that the obstructive building should be pulled down, and shall deliver the report to the clerk of the local authority.

(2.) The local authority shall refer such report to a surveyor or engineer (*a*) to report thereon, and to report as to the cost of acquiring the lands on which such obstructive building is erected and of pulling down such building.

(3.) The local authority shall take into consideration the reports of the officer of health and of the surveyor, and if they decide to adopt such reports shall cause copies to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for the consideration thereof; and such owner shall be at liberty to attend and state his objections, and after hearing such objections the local authority shall make an order in writing signed by their clerk either allowing the objections or directing that such obstructive building shall be pulled down, and such order shall be subject to appeal in like manner as an order of the local authority under the Artizans and Labourers Dwellings Act, 1868 (*b*).

(4.) Where an order of the local authority for pulling down an obstructive building is made under this section and is not appealed against, or if appealed against is confirmed, the local authority shall be deemed to be authorised to purchase the lands on which the obstructive building is erected in like manner as if they had been authorised by a special Act to purchase the same; and for the purpose of such purchase the provisions of the Lands Clauses Consolidation Act, 1845, and the Acts amending the same with respect to the purchase and taking of lands otherwise than by agreement, shall be deemed to be incorporated in this Act (subject nevertheless to the provisions of this Act), and for the purpose of those provisions this Act shall be deemed to be the special Act and the local authority to be the promoters of the undertaking, and such lands may be purchased at any time within one year after the date of the order, or if it was appealed against after the date of the confirmation (*c*).

8 & 9 Vict. c. 18.

(5.) The owner of the lands may within one month after notice to purchase the same is served upon him declare that he desires to retain the site of the obstructive building and undertake either to pull down or to permit the local authority to pull down the obstructive building, and in such case the owner shall retain the site and shall receive compensation from the local authority for the pulling down of the obstructive building.

(*a*) Compare the 31 & 32 Vict. c. 130, s. 6, *ante*, and see the notes to that section. The surveyor or engineer is to report generally as well as with reference to the cost of acquiring and pulling down. For the procedure when the authority resolve that a case is of general importance to the metropolis, and ought to be dealt with by the Metropolitan Board of Works, see 48 & 49 Vict. c. 72, s. 5, *ante*.

(*b*) For the procedure on such appeal, see 31 & 32 Vict. c. 130, s. 9, *ante*.

(*c*) See the Lands Clauses Act, 1845, 8 Vict. c. 18, ss. 18, *et seq.* It is submitted that those sections relating to notice of intention to take lands will not apply, having regard to the notice given under the earlier part of the section.

(6.) The amount of such compensation, and also the amount of any compensation to be paid on the purchase of any lands under this section, shall in case of difference be settled by arbitration in manner provided by section seven of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, as amended by this part of this Act (*d*).

(7.) Where the owner retains the site or any part thereof, section twenty-three of the Artizans and Labourers Dwellings Act, 1868, shall apply to such site. (*e*).

(8.) Where the lands are purchased by the local authority the local authority shall pull down the obstructive building, or such part thereof as may be obstructive within the meaning of this section, and keep as an open space the whole site, or such part thereof as may be required to be kept open for the purpose of remedying the evils caused by such obstructive building, and may, with the assent of the confirming authority and upon such terms as such authority thinks expedient, permit such portion of the site to be sold as is not required for the purpose of carrying this section into effect (*f*).

Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of such other buildings as are in that behalf mentioned in this section, the arbitrator shall apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of such obstructive building shall be deemed to be private improvement expenses (*g*) incurred by the local authority in respect of such building, and such local authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly; and the provisions of the Public Health Act, 1875, relating to private improvement expenses and to private improvement rates shall, so far as circumstances admit, apply accordingly in the same manner as if such provisions were incorporated in this Act, and the said provisions shall be deemed to extend to the city of London and to the metropolis, and in the construction of the said provisions, as respects the city of London, the Commissioners of Sewers, and as respects the metropolis, the Metropolitan Board of Works, shall be deemed to be the urban authority. 38 & 39 Vict. c. 55.

If any dispute arises between the owner or occupier of any building (to which any amount may be apportioned in respect of private improvement expenses) and the arbitrator by whom such apportionment

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(*d*) See this section, *ante*, p. 59.

(*e*) See this section, *ante*, p. 51. The effect of this provision is to prevent an owner from erecting any building which may be injurious to health on the site retained by the owner.

(*f*) They may also let the portion. See 42 & 43 Vict. c. 64, s. 10, *ante*, p. 61, and the note to that section.

(*g*) Private improvement expenses are regulated by the Public Health Act, 1875, ss. 213, 215, in urban districts. They constitute a charge on the premises, and are recovered by a private improvement rate payable by the occupier, to be deducted from his rent in certain proportions. These rates may also be redeemed at any time before the expiration of the period for which they are made.

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is made, such dispute shall be settled by two justices in manner provided by the Lands Clauses Consolidation Act, 1845, in cases where the compensation claimed in respect of lands does not exceed fifty pounds (*a*).

Amendment of section 7 of 42 & 43 Vict. c. 64.

IX. Section seven of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879, shall be construed as if the words "and all circumstances affecting such value" were omitted therefrom (*b*).

Expenses of local authority.

X. The expenses of the local authority under this part of this Act shall be defrayed in like manner as expenses incurred in pursuance of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879 (*c*).

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(*a*) See the 8 Vict. c. 18, ss. 22, 24. The six months' limitation imposed by 11 & 12 Vict. c. 43, s. 11, does not apply to justices acting under these sections. *Reg.* v. *Edwards*, 13 Q. B. D. 586; 53 L. J. M. C. 149; 51 L. T. (N.S.) 586.

(*b*) See the section as amended, *ante*, p. 59.

(*c*) That is, out of the local rate. See 42 & 43 Vict. c. 64, s. 21, and Schedule I.

Section 11 of this Act was repealed by the 48 & 49 Vict. c. 72, *ante*. It is replaced by the provisions of section 5 of that Act, *ante*, p. 17.

PART III.

THE ARTIZANS AND LABOURERS DWELLINGS IMPROVEMENT ACTS.

THE ARTIZANS AND LABOURERS DWELLINGS IMPROVEMENT ACT, 1875.

(38 & 39 Vict. Cap. 36.)

An Act for facilitating the Improvement of the Dwellings of the Working Classes in Large Towns. [29th June, 1875.]

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Whereas various portions of many cities and boroughs are so built, and the buildings thereon are so densely inhabited, as to be highly injurious to the moral and physical welfare of the inhabitants:

And whereas there are in such portions of cities and boroughs as aforesaid a great number of houses, courts, and alleys which, by reason of the want of light, air, ventilation, or of proper conveniences, or from other causes, are unfit for human habitation, and fevers and diseases are constantly generated there, causing death and loss of health, not only in the courts and alleys but also in other parts of such cities and boroughs:

And whereas it often happens that owing to the above circumstances, and to the fact that such houses, courts, and alleys are the property of several owners, it is not in the power of any one owner to make such alterations as are necessary for the public health:

And whereas it is necessary for the public health that many of such houses, courts, and alleys should be pulled down, and such portions of the said cities and boroughs should be reconstructed:

And whereas in connection with the reconstruction of those portions of such cities and boroughs it is expedient that provision be made for dwellings for the working class who may be displaced in consequence thereof:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

I. This Act may be cited for all purposes as "The Artizans and Labourers Dwellings Improvement Act, 1875."

Application of Act to certain districts, and description of local authority.

II. This Act shall apply only to
(1.) The city of London; and
(2.) The metropolis, exclusive of the city of London; and
(3.) Urban sanitary districts in England . . . . (*d*);

(*d*) This Act originally applied only to urban sanitary districts having a population of 25,000 or upwards. It is now applied to all urban districts. 48 & 49 Vict. c. 72, s. 5, and schedule.

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(4.) Urban sanitary districts in Ireland . . . . ;

and the local authority shall be as follows ; that is to say,—

(1.) As respects the city of London, the Commissioners of Sewers ; and

(2.) As respects the metropolis, the Metropolitan Board of Works ; and

(3.) As respects each urban sanitary district, the urban sanitary authority of that district.

PART I.

Unhealthy Areas.

1. *Scheme by Local Authority.*

Local authority on being satisfied by official representation of the unhealthiness of district to make scheme for its improvement.

III. Where an official representation as hereinafter mentioned (*a*) is made to the local authority that any houses, courts, or alleys within a certain area under the jurisdiction of the local authority are unfit for human habitation, or that diseases indicating a generally low condition of health amongst the population have been from time to time prevalent in a certain area within the jurisdiction of the local authority, and that such prevalence may reasonably be attributed to the closeness, narrowness, and bad arrangement or the bad condition of the streets and houses or groups of houses within such area, or to the want of light, air, ventilation, or proper conveniences, or to any other sanitary defects, or to one or more of such causes, and that the evils connected with such houses, courts, or alleys, and the sanitary defects in such area, cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets and houses within such area, or of some of such streets or houses, the local authority shall take such representation into their consideration (*b*), and if satisfied of the

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(*a*) See the next section.

(*b*) By the 45 & 46 Vict. c. 54, s. 6, *post*, it is provided that where an official representation made to the Metropolitan Board of Works relates to not more than ten houses, that board are not to take any proceedings on such representation, but are to direct the officer making it to report the case to the local authority, as defined by the 31 & 32 Vict. c. 130, and it is to be the duty of the latter local authority to deal with the case in manner provided by the last-mentioned Act, and the Acts amending the same. In other words, the case is to be reported to the vestry or district Board of Works, as the case may be, and that body is thereafter to proceed as if the officer of health had reported under 31 & 32 Vict. c. 130, s. 5, *ante*, p. 45, that the houses in question were in a condition or state dangerous to health, so as to be unfit for human habitation. And by the 48 & 49 Vict. c. 72, s. 5, sub-sect. (2), when a report has been made under 30 & 31 Vict. c. 130, or under 42 & 43 Vict. c. 63, and the vestry or district board, as the case may be, resolve that the case is of such general importance to the metropolis that it should be dealt with under this (the third) group of Acts ; and also where an official representation has been made to the Metropolitan Board of Works, and that body resolve that the case is not of general importance to the metropolis, but that it should be dealt with under the second group (30 & 31 Vict. c. 130, and amending Acts) ; in either of such cases the local authority or board, as the case may be, are to submit such resolution to a Secretary of State, who is thereupon to direct an inquiry ; after the inquiry the Secretary of State is to direct under which group of Acts the case is to be dealt with. See the section, *ante*, p. 17.

truth thereof, and of the sufficiency of their resources, shall pass a resolution to the effect that such area is an unhealthy area, and that an improvement scheme ought to be made in respect of such area, and after passing such resolution they shall forthwith proceed to make a scheme for the improvement of such area.

Provided always, that no person being beneficially interested in any lands within such area shall vote as member of the local authority upon such resolution, or upon any question relating to the purchase or taking of lands in which he is so interested.

If any person votes in contravention of this proviso, he shall, on summary conviction, incur a penalty not exceeding twenty pounds (*c*); but the fact of his giving such vote shall not invalidate any resolution passed by the local authority.

Provided always, that any number of such areas may be included in one improvement scheme.

Official representation by whom to be made.

IV. An official representation shall mean, in the metropolis, a representation made by the medical officer of health of any district board, or vestry, or by such medical officer as is hereafter in this Act mentioned (*d*), to the local authority, and elsewhere shall mean a representation made to the local authority by the medical officer of health of such authority (*e*). A medical officer acting in pursuance of this Act shall make such representation whenever he sees cause to make the same; and if two or more justices of the peace acting within the jurisdiction for which he is medical officer, or twelve or more persons liable to be rated to any rate out of the proceeds of which the expenses of the local authority under this Act are made payable (*f*), complain to him of the unhealthiness of any area within such jurisdiction, it shall be the duty of the officer forthwith to inspect such area, and to make an official representation stating the facts of the case, and whether in his opinion the area is an unhealthy area or not an unhealthy area, for the purposes of this Act.

Requisites of improvement scheme of local authority.

V. The improvement scheme of a local authority shall be accompanied by maps, particulars, and estimates; it may exclude any part of the area in respect of which an official representation is made, or include any neighbouring lands, if the local authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient for sanitary purposes (*g*); it may also provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health; also it shall distinguish the lands proposed to be taken compulsorily (*h*), and shall provide for the accommodation of at the least as many persons of the

(*c*) This penalty may be recovered on the information of any person, but the informer will not be entitled to any part of it; it will be appropriated as an unappropriated penalty under 11 & 12 Vict. c. 43, s. 31.

(*d*) See Part II. of this Act, *post*.

(*e*) As to the medical officer of health in an urban district, see the Public Health Act, 1875, ss. 189, 191.

(*f*) This will signify in an urban district any twelve persons rated to the general district rate. See section 21, *post*.

(*g*) Thus, the improvement scheme is not limited to the area mentioned in the representation, nor need it relate to every part of that area.

(*h*) From this it is to be inferred, that the scheme must state the property which must be acquired for the purposes of the scheme, and of such property to distinguish how much is to be acquired compulsorily.

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working class as may be displaced in the area with respect to which the scheme is proposed, in suitable dwellings, which, unless there are any special reasons to the contrary, shall be situate within the limits of the same area, or in the vicinity thereof; it shall also provide for proper sanitary arrangements (*a*). It may also provide for such scheme or any part thereof being carried out and effected by the person entitled to the first estate of freehold (*b*) in any property subject to the scheme or with the concurrence of such person, under the superintendence and control of the local authority, and upon such terms and conditions to be embodied in the scheme as may be agreed upon between the local authority and such person.

2. *Confirmation of Scheme.*

Improvement scheme by provisional order to be confirmed by Parliament. Publication of notices.

VI. Upon the completion of an improvement scheme the local authority shall—

Publish, during three consecutive weeks in the month of September, or October, or November, in some one and the same newspaper (*c*) circulating within the jurisdiction of the local authority, an advertisement stating the fact of a scheme having been made, the limits of the area to which the scheme relates, and naming a place within such area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours; and—

Service of notices.

During the month next following the month in which such advertisement is published serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of any lands proposed to be taken compulsorily, so far as such persons can reasonably be ascertained (*d*), stating that such lands are proposed to be taken compulsorily for the purpose of an improvement scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer stating whether the person so served dissents or not in respect of taking such lands, such notice to be served—

(*a.*) By delivery of the same personally to the person required to be served, or if such person is absent abroad, or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the premises (*e*); or,

(*b.*) By leaving the same at the usual or last known place of abode of such person as aforesaid; or,

(*c.*) By forwarding the same by post in a prepaid letter addressed to the usual or last known place of abode of such person.

(*a*) See 42 & 43 Vict. c. 63, s. 4, *post*, and 45 & 46 Vict. c. 54, s. 3, *post*. The effect of all the sections on this subject will be found in note (*c*) to section 12, *post*.

(*b*) This includes a tenant for life.

(*c*) The local authority are only empowered to advertise in one newspaper, and if they advertise in a paper during the first week, they cannot advertise in any other paper during the second or third weeks. As to the form of the advertisement, see section 26, *post*, and the General Order made under that section (see Glen's Local Government Orders, p. 535). See also section 27, *post*.

(*d*) The words "so far as can reasonably be ascertained," do not occur in the corresponding section of the Public Health Act, 1875, s. 176 (*Lumley*, p. 205).

(*e*) The notice can only be left on the premises when the person cannot be found, and he has no agent who can be found. As to the form of the notices, see section 26, *post*, and the General Order made under that section (Glen's Local Government Orders, p. 535). See also section 27, *post*, as to the power to dispense with the publication of any advertisement or the service of any notice.

One notice addressed to the occupier or occupiers without naming him or them, and left at any house, shall be deemed to be a notice served on the occupier or on all the occupiers of any such house.

Petition to Secretary of State or Local Government Board.

Upon compliance with the provisions contained in this section with respect to the publication of an advertisement and the service of notices, the local authority shall present a petition, if such authority be the Commissioners of Sewers or the Metropolitan Board of Works, to a Secretary of State, and if such authority be an urban sanitary authority, to the Local Government Board, praying that an order may be made confirming such scheme. The petition shall be accompanied by a copy of the scheme, and shall state the names of the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking their lands, and shall be supported by such evidence as the Secretary of State or Local Government Board, according to the circumstances of the case (in this Act referred to as the confirming authority), may from time to time require :

If, on consideration of the petition and on proof of the publication of the proper advertisements and the service of the proper notices (*f*), the confirming authority think fit to proceed with the case, they shall direct a local inquiry (*g*) to be held in, or in the vicinity of, the area to which the scheme relates, for the purpose of ascertaining the correctness of the official representation made as to the area and the sufficiency of the scheme provided for its improvement, and any local objections to be made to such scheme :

After receiving the report made upon such inquiry, the confirming authority may (*h*) make a provisional order declaring the limits of the area to which the scheme relates, and authorising such scheme to be carried into execution. Such provisional order may be made either absolutely or with such conditions and modifications of the scheme as the confirming authority may think fit, so that no addition be made to the lands proposed in the scheme to be taken compulsorily (*i*), and it shall be the duty of the local authority to serve a copy of any provisional order so made in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required by this Act to be served (*k*), except tenants for a month or a less period than a month.

A provisional order made in pursuance of this section shall not be of any validity until and unless it has been confirmed by Act of Parliament; and it shall be lawful for the confirming authority, as soon as conveniently may be, to obtain such confirmation, and any provisional order made in pursuance of this Act, when confirmed by Parliament, with such modifications as may seem fit to Parliament, shall be deemed to be a Public General Act of Parliament (*l*), and is in this Act referred to as the confirming Act.

(*f*) The confirming authority may dispense with the advertisements and notices in certain cases. See section 27, *post*.

(*g*) See sections 16-18, *post*.

(*h*) Note that it is optional with the confirming authority to make this provisional order.

(*i*) This is an important limitation.

(*k*) That is, upon every owner or reputed owner, lessee or reputed lessee.

(*l*) Since the 13 & 14 Vict. c. 21, s. 7, every Act is a public Act unless otherwise provided. The object of the express enactment in the text is to avoid the strict construction of the Act as against the local authority, which would follow if the Act were a local and personal Act. See *Maxwell on the Interpretation of Statutes*, p. 363.

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The confirming authority may make such order as they think fit in favour of any person whose lands were proposed by the scheme to be taken compulsorily for the allowance of the reasonable costs, charges, and expenses properly incurred by him in opposing such scheme (*a*).

All costs, charges, and expenses incurred by the confirming authority in relation to any provisional order under this Act shall, to such amount as the confirming authority think proper to direct, and all costs, charges, and expenses of any person to such amount as may be allowed to him by the confirming authority in pursuance of the aforesaid power, shall be deemed to be an expense incurred by the local authority under this Act (*b*), and shall be paid to the confirming authority and to such person respectively, in such manner and at such times and either in one sum or by instalments as the confirming authority may order, with power for the confirming authority to direct interest to be paid at such rate not exceeding five pounds in the hundred by the year as the confirming authority may determine, upon any sum for the time being due in respect of such costs, charges, and expenses as aforesaid.

Any order made by the confirming authority in pursuance of this section may be made a rule of one of Her Majesty's superior courts, and be enforced accordingly (*c*).

Costs to be awarded in certain cases.

VII. Where any bill for confirming a provisional order authorising an improvement scheme is referred to a committee of either House of Parliament upon the petition of any person opposing such bill, the committee shall take into consideration the circumstances under which such opposition is made to the bill, and whether such opposition was or was not justified by such circumstances, and shall award costs accordingly to be paid by the promoters or the opponents of the bill as the committee may think just.

Any costs under this section may be taxed and recovered in the manner in which costs may be taxed and recovered under the Act of the session of the twenty-eighth and twenty-ninth years of the reign of Her present Majesty, chapter twenty-seven (*d*).

The decision of the majority of the members of the committee for the time being present and voting on any question under this section shall be deemed to be the decision of the committee.

Inquiry on refusal of local authority to make an improvement scheme.

VIII. Where an official representation is made to the local authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to such representation, or pass a resolution to the effect that they will not proceed with such scheme, such local authority shall, as soon as possible (*e*), send a copy of the official representation, accompanied by their reasons for not acting upon it, to the confirming authority, and, upon the receipt thereof, the confirming authority may direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the

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(*a*) This appears to refer to opposing the scheme at the local inquiry. Notice that no order can be made *against* a person so opposing.

(*b*) See section 21, *post*, as to expenses under this Act.

(*c*) That is to say, in the same manner as a judgment. See 1 & 2 Vict. c. 100, s. 18.

(*d*) This is an Act enabling parliamentary committees to award costs in certain cases.

(*e*) When can it be said that the local authority have *failed* to pass a resolution?

official representation made to the local authority, and any matters connected therewith on which the confirming authority may desire to be informed. Appndx.

3. *Execution of Scheme by Local Authority.*

Duty of local authority to carry scheme, when confirmed, into execution.

IX. When the confirming Act authorizing any improvement scheme of a local authority under this Act has been passed by Parliament, it shall be the duty of that authority to take steps for purchasing the lands (*f*) required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable. They may sell or let all or any part of the area to which such scheme relates to any purchasers or lessees for the purposes and under the condition that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the scheme into execution ; and in particular they may insert in any grant or lease of any part of the area provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the buildings, and prohibiting the division of buildings, and any addition to or alteration of the character of buildings without the consent of the local authority, and for the revesting of the land in the local authority, or their re-entry thereon, on breach of any provision in the grant or lease. The local authority may also engage with any body of trustees, society or societies, persons or person, to carry the whole or any part of such scheme into effect upon such terms as the local authority may think expedient, but the local authority shall not themselves, without the express approval of the confirming authority, undertake the rebuilding of the houses or the execution of any part of the scheme, except that they may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land purchased by them as they may think fit, and all streets so laid out and completed shall thenceforth be public streets, repairable by the same authority as other streets in the district (*g*).

Provided that in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwellings for the working classes, the local authority shall impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and shall make due provision for the maintenance of proper sanitary arrangements (*h*).

Provided also, that in any case in which the local authority erect any dwellings out of funds to be provided under this Act, they shall, unless

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(*f*) If the lands are charged with rentcharge in lieu of tithes, the local authority must apply to the tithe commissioners to order the redemption of the rentcharge for a sum of money equal to twenty-five times the amount thereof, and the money and the expenses of redemption must be paid within a time fixed by the commissioners. The application for redemption may be signed by the clerk.

(*g*) All the local authority can do themselves is to clear the site, and lay out, pave, and sewer streets upon the site. The remainder of the scheme must be carried out by purchasers, lessees, grantees, trustees, &c., as in the section mentioned, unless the confirming authority expressly consent to the work being done by the local authority.

(*h*) This clause is obligatory on the local authority.

Appndx. the confirming authority shall otherwise determine, sell and dispose of all such dwellings within ten years from the time of the completion thereof.

The local authority may, where they think it expedient so to do, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold (*a*) in any land comprised in an improvement scheme for the carrying out of the scheme in respect of such land by such person.

Completion of scheme on failure by local authority.

X. If within five years after the removal of any buildings on the land set aside by any provisional order as sites for working men's dwellings the local authority have failed to sell or let such land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of the said dwellings, the confirming authority may order the said land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme, and to any modifications thereof which may be made in pursuance of this Act, and to a special condition on the part of the purchaser to erect upon the said land dwellings for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the confirming authority may deem necessary.

Notice to occupiers by placards.

XI. The local authority shall, not less than thirteen weeks before taking (*b*) any fifteen houses or more, make known their intention to take the same by placards, handbills, or other general notices placed in public view upon or within a reasonable distance of such houses, and the local authority shall not take any such houses until they have obtained a certificate of a justice of the peace that it has been proved to his satisfaction that the local authority have made known, in manner required by this section, their intention to take such houses.

Power of confirming authority to modify authorized scheme.

XII. The confirming authority, on application from the local authority, and on its being proved to their satisfaction that an improvement can be made in the details of any scheme, and that due provision has been made or secured for the accommodation in suitable dwellings of as many persons of the working class as may be displaced in the area to which such scheme relates, either in manner provided by the scheme or in some other manner, or will be more advantageously made or secured under the proposed alteration, may permit the local authority to modify any part of an improvement scheme authorized by the confirming Act which it may appear inexpedient to carry into execution in accordance with such Act (*c*).

(*a*) See section 5, note (*b*), *ante*, p. 76.

(*b*) The taking here referred to evidently means the taking possession of.

(*c*) With reference to the modification of the scheme in so far as regards the provision of dwellings for persons of the working classes as are displaced, see section 5, note (*a*), *ante;* see also 42 & 43 Vict. c. 63, s. 4, and 45 & 46 Vict. c. 63, s. 3, *post*. The effect of the several provisions on this subject may be thus concisely stated. Section 5 of this Act required that an improvement scheme should provide for the accommodation of at least as many persons as might be displaced in the area dealt with. This accommodation was to consist of suitable dwellings, which were to be situate within the same area, or in the vicinity thereof. The sufficiency, &c., of the accommodation proposed

A statement of any modifications permitted to be made in any part of an improvement scheme in pursuance of this section shall be laid by the confirming authority before both Houses of Parliament as soon as practicable after they are made, if Parliament be then sitting, and if not, within one month after the next meeting of Parliament: Provided always, that if such modification or alteration shall require a larger public expenditure than that sanctioned by the former scheme, or the taking of any property otherwise than by agreement, or shall affect injuriously other property in a manner different to that proposed in the former scheme without the consent of the owner and occupier of any such property, it must be made by a provisional order to be confirmed by Act of Parliament in the manner provided in section six of this Act on the completion of an improvement scheme (*d*).

PART II.

Provisions ancillary to Improvement Scheme.

As to Local Authority.

1. *Medical Officer.*

Medical officer of health in metropolis.

XIII.—The Metropolitan Board of Works may, with the assent of a Secretary of State, at any time appoint one or more legally qualified medical practitioner or practitioners, with such remuneration as they think fit, for the purpose of better carrying into effect this Act in the metropolis. Any officer so appointed by the Metropolitan Board of

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would, of course, be considered by the confirming authority, on the report made by their officer, under section 6, and that section enables the confirming authority to make the provisional order either absolutely or with modifications which might, as it is submitted, have reference to the provision of accommodation for the persons displaced. The present section (section 12), enables the confirming authority to modify the scheme in the cases mentioned in the section, even after the scheme has received the authority of the Act of Parliament. But it was one of the conditions of such a modification that due provision had been secured for the accommodation of the persons displaced, or would be better secured by the proposed modification. The Act of 1875 (42 & 43 Vict. c. 63, s. 4) enabled the confirming authority to authorize or modify a scheme under which equally convenient accommodation was provided for the persons displaced, at some place other than within the area or its immediate vicinity. The Act of 1882 (45 & 46 Vict. c. 54, s. 3) contains a further alteration of the law. By that section, if in the metropolis the officer conducting the local inquiry reports that a modification should be made, the confirming authority may dispense with the obligation to provide accommodation to an extent not exceeding one-half of the persons displaced. In the case of a scheme elsewhere than in the metropolis, while it is still necessary that the scheme should provide for the accommodation of persons displaced, if the confirming authority require it, in the absence of any such requirement it is no longer obligatory on the sanitary authority to make any such provision in the scheme. See also the notes to the 45 & 46 Vict. c. 54, s. 3, *post*.

(*d*) Notice the three cases in which a second provisional order is required, particularly the last as to *injuriously affecting* other property without the consent of the owner and occupier.

Appndx.

Works shall be deemed to be a medical officer of health of a local authority within the meaning of this Act, and shall peform the duties and be subject to the liabilities which such medical officer is by this Act required to perform and be subject to (*a*).

Provision in case of absence of medical officer of health.

XIV. In case of the illness or unavoidable absence of the medical officer of health, the district board, vestry, or local authority (*b*), as the case may be, may (subject to the approval of the confirming authority) (*c*) appoint a duly qualified medical practitioner, who shall for the period of six calendar months, or any less period to be named in the appointment, have and perform all the powers and duties of a medical officer of health under this Act.

Inquiry on default of medical officer in certain cases.

XV. Where twelve or more ratepayers have complained to a medical officer of the unhealthiness of any area within the jurisdiction of such officer, and the medical officer has failed to inspect such area, or to make an official representation with respect thereto, or has made an official representation to the effect that in his opinion the area is not an unhealthy area, such ratepayers may appeal to the confirming authority, and, upon their giving security to the satisfaction of that authority for costs, the confirming authority shall appoint a medical officer to inspect such area and to make representation to the confirming authority, stating the facts of the case, and whether, in his opinion, the area is an unhealthy area or not an unhealthy area. The representation so made shall be transmitted by the confirming authority to the local authority, and if it state that the area is an unhealthy area the local authority shall proceed therein in the same manner as if it were an official representation made to that authority (*d*).

The confirming authority shall make such order as to the costs of the inquiry as they think just, with power to require the whole or any part of such costs to be paid by the appellants where the officer appointed is of opinion that the area is not an unhealthy area, and to declare the whole or any part of such costs to be payable by the local authority where such officer is of opinion that the area is an unhealthy area.

Any order made by the confirming authority in pursuance of this section may be made a rule of one of Her Majesty's superior courts, and be enforced accordingly (*e*).

2. *Local Inquiry.*

Proceedings on local inquiry.

XVI. Where a local inquiry is directed, an officer shall be sent by the confirming authority to the area to which such inquiry relates for the purpose of making an inquiry into the correctness of the official

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(*a*) The officers so appointed are, in addition to the medical officers of a vestry or district board, appointed under 18 & 19 Vict. c. 120, s. 132. Both kinds of medical officers are referred to in section 4, *ante*.

(*b*) That is, the Metropolitan Board of Works. See section 2, *ante*.

(*c*) That is, a Secretary of State. See section 6, *ante*.

(*d*) That is, they must proceed to take the representation into consideration, and act thereon. See section 3, *ante*.

(*e*) See note (*c*) to section 6, *ante*, p. 78.

representation made to the local authority as to such area being an unhealthy area, and into the sufficiency of the scheme provided for its improvement, and into any local objections to be made to such scheme. Appndx.

Notice of inquiry to be publicly given.

XVII. Before commencing such inquiry the officer appointed to conduct the same shall make public by advertisement or otherwise in such manner as he thinks best calculated to give information to the persons residing in the area his intention to make such inquiry, and a statement of a time and place at which he will be prepared to hear all persons desirous of being heard before him upon the subject of the inquiry.

Power to administer oath.

XVIII. The officer conducting such inquiry shall have power to administer an oath (*f*); he shall report the result of the inquiry to the confirming authority, who shall deal with such report in such manner as they think expedient (*g*).

3. *Acquisition of Land.*

Acquisition of land.

XIX. (1.) The clauses of the Lands Clauses Consolidation Act, 1845, with respect to the purchase and taking of lands otherwise than by agreement shall not, except to the extent set forth in the schedule hereto (*h*), apply to any lands taken in pursuance of this Act, but save as aforesaid the said Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, as amended by the provisions contained in the schedule hereto (*h*), shall regulate and apply to the purchase and taking of lands in England, and shall for that purpose be deemed to form part of this Act in the same manner as if they were enacted in the body thereof; and (2.) "The Lands Clauses Consolidation Act, 1845," as amended by "The Lands Clauses Consolidation Act, 1860," "The Railways Act (Ireland), 1851," "The Railways Act (Ireland), 1860," "The Railways Act (Ireland), 1864," and "The Railways Traverse Act," shall, subject to the provisions following, regulate and apply to the purchase and taking of lands in Ireland, and shall for this purpose be deemed to form part of this Act, in the same manner as if they were enacted in the body hereof,

Subject, as respects both England and Ireland, to the provisions following; that is to say,

(1.) This Act shall authorize the taking by agreement any lands (*i*) which the local authority may require for the purpose of carrying into effect the scheme authorized by any confirming Act, but it shall authorize the taking by the exercise of any compulsory powers of such lands only as are proposed by the scheme in the confirming Act to be taken compulsorily:

(*f*) *Quære*, whether this provision was necessary, regard being had to the 14 & 15 Vict. c. 99, s. 16.

(*g*) See section 6, *ante*.

(*h*) Observe that the schedule has been largely repealed and replaced by the subsequent Acts. It has been held that section 121 of the Lands Clauses Act is incorporated by this section. See *Wilkins* v. *Mayor, &c., of Birmingham*, 25 Ch. D. 78.

(*i*) That is, any lands, whether proposed by the scheme to be taken or not,

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(2.) Whenever the compensation payable in respect of any lands or of any interests in any lands proposed to be taken compulsorily in pursuance of this Act requires to be assessed, the estimate of the value of such lands or interests shall be based upon the fair market value, as estimated at the time of the valuation being made of such lands, and of the several interests in such lands, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, without any additional allowance in respect of the compulsory purchase of an area or of any part of an area in respect of which an official representation has been made, or of any lands which in the opinion of the arbitrator have been included in a scheme as falling under the description of property named in the third section of this Act (*a*):

(3.) In the construction of the said Lands Clauses Consolidation Acts, and the provisions in the said schedule, this Act shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking; and the period after which the powers for the compulsory purchase or taking of lands shall not be exercised shall be three years after the passing of the confirming Act.

Extinction of rights of way and other easements.

XX. Upon the purchase by the local authority of any lands required for the purpose of carrying into effect any scheme authorized by a confirming Act, all rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under such lands, or part thereof, and all other rights or easements in or relating to such lands, or any part thereof, shall be extinguished, and all the soil of such ways, and the property in the pipes, sewers, or drains, shall vest in the local authority, subject to this provision, that compensation shall be paid by the local authority to any persons or bodies of persons proved to have sustained loss by this section, and such compensation shall be determined in the manner in which compensation for lands is determinable under this Act, or as near thereto as circumstances admit (*b*).

(*a*) If the premises were in such a state as to be a nuisance, the cost of abating the nuisance is to be deducted from the compensation payable (42 & 43 Vict. c. 63, s. 3, *post*). Additions and improvements are not to be taken into account if made after the date of an advertisement of the scheme, unless such addition, &c., consisted of necessary repairs (45 & 46 Vict. c. 54, s. 4, *post*).

(*b*) It was held that this section applied to ancient lights in respect of premises adjoining the lands purchased, and that the loss of such ancient lights was matter for compensation by the local authority according to the Act. *Badham* v. *Morris*, 45 L. T. (N.S.) 579. This decision has since been followed. In *Swanston* v. *Finn and The Metropolitan Board of Works* (52 L. J. Ch. 235; 48 L. T. (N.S.) 634; 31 W. R. 498), it was held that the effect of the section is that upon the purchase of land by a local authority under this Act, all easements whatsoever affecting the land become thenceforth extinguished, subject only to this, that compensation is to be paid by the local authority to persons injured in manner provided by the section. In that case a local authority had purchased and taken a house for the purpose of an improvement scheme. The plaintiffs, the owners of adjoining land, claimed to be entitled to a right to support to a building thereon from the house so purchased, and brought an action to restrain the local authority from removing the house in such a way as to interfere with the plaintiffs' right to support. The local

4. *Expenses.*

XXI. A separate account shall be kept by the local authority of their receipts and expenditure in respect of any transactions under this Act. Their receipts shall form a fund (in this Act referred to as "The Dwelling-house Improvement Fund"), and their expenditure shall be made out of such fund. Formation of improvement fund for purposes of this Act.

The moneys required in the first instance to establish such fund, and any deficiency for the purposes of this Act from time to time appearing in such fund by reason of the excess of expenditure over receipts, shall be supplied out of the local rates (*c*) or out of moneys borrowed in pursuance of this Act (*d*).

In settling any accounts of the local authority in respect of any transactions under this Act, care shall be taken that, as far as may be practicable, all expenditure shall ultimately be defrayed out of the property dealt with under this Act; and any balances of profit made by the local authority under this Act shall be applicable to any purposes to which the local rates are for the time being applicable (*e*).

The local rates shall, in the case of the Commissioners of Sewers, mean the sewer rate and the consolidated rate leviable by such commissioners, or either of such rates.

The Metropolitan Board of Works shall levy as part of the metropolitan consolidated rate within the area of the metropolis, without making any demand on the city of London, a sufficient amount for the purposes of this Act, and the part so levied shall, for the purposes of this Act, in the case of the Metropolitan Board of Works, be referred to and included under the expression "local rates."

The "local rates" shall in the case of an urban sanitary authority mean all or any rates or rate levied throughout the district of such authority, and out of which the local authority is authorized to pay any expenses incurred under the Sanitary Acts, as defined by the Public Health Act, 1872 (*f*), and by the Public Health (Ireland) Act, 1874.

The local authority may carry to the account of the Dwelling-house Improvement Fund any moneys or the produce of any property, which moneys or produce are or is legally applicable to purposes similar to the purposes of this Act; and in case of doubt as to whether, in any particular case, the purposes are similar to the purposes of this Act, it shall be lawful for the confirming authority to decide such question, and such decision shall be conclusive (*g*).

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authority had taken no proceedings to purchase the alleged easement of the plaintiffs. It was held that the only right the plaintiffs could have was to receive compensation under the section, and that the action must therefore fail.

(*c*) Vide *infra*. The local rates in the case of an urban authority are the general district rates.

(*d*) See the next section.

(*e*) In the case of an urban authority, these balances may simply be paid into the district fund.

(*f*) Now the Public Health Act, 1875. See section 313 of that Act. As to the local rates, see sections 209, 210 of that Act, and note (*c*), *supra*.

(*g*) It will be prudent for the local authorities to refrain from acting under this power without the express consent of the confirming authority.

Appndx.

Power of borrowing money for the purposes of the Act.

XXII. Any local authority under this Act may for the purposes of this Act borrow any moneys on the security of any lands, houses, or other property acquired by them under this Act, and may mortgage such lands, houses, or other property to any person advancing such moneys, and it shall not be in any way incumbent on the mortgagees to see to the application of such moneys, nor shall they be responsible for the misapplication thereof.

Every local authority borrowing on the credit of such lands, houses, or other property as aforesaid may pay out of local rates (*a*) the interest of any moneys so borrowed by them.

Any local authority under this Act borrowing any moneys on the security of any lands, houses, or other property as aforesaid may execute such instruments by way of security, with such power of sale and other conditions as they think expedient (*b*).

An urban sanitary authority shall have the same power of borrowing on the credit of the local rates such sums of money as they may require for the purposes of this Act as they have under section forty of the Public Health Act, 1872 (*c*), or under the Public Health (Ireland) Act, 1874, for sanitary purposes.

The Commissioners of Sewers may borrow and take up at interest such money on the credit of the local rates, or any of them, as they may require for the purposes of this Act, and may mortgage any such rate or rates to the persons by or on behalf of whom such money is advanced for securing the repayment to them of the sums borrowed, with interest thereon, and for the purposes of any mortgages so made by the Commissioners of Sewers the clauses of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners shall be incorporated with this Act; and in the construction of that Act "the special Act" shall mean this Act; "the commissioners" shall mean the Commissioners of Sewers; "the clerk of the commissioners" shall include any officer appointed for the purpose by the Commissioners of Sewers by this Act; and the mortgagees or assignees of any mortgage made as last aforesaid may enforce payment of the arrears of principal and interest due to them by the appointment of a receiver.

The Metropolitan Board of Works may, with the assent of the Treasury, create consolidated stock under the Metropolitan Board of Works (Loans) Act, 1869, for the purpose of raising such sums as they may require for the purposes of this Act, but there shall be repaid to the consolidated rate out of the local rate all moneys required for payment of the dividends on and the redemption of the consolidated stock created for the purposes of this Act.

The Public Works Loan Commissioners, or, in the case of Ireland, the Commissioners of Public Works, acting with the consent of the Treasury, may, on the recommendation of the confirming authority, lend to any local authority any money required by them for the purposes of this Act, on the security, in the case of the Metropolitan Board of Works,

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(*a*) See the last section.

(*b*) There are no statutory provisions as to the mortgages, and the mortgagee is therefore in the same position as if he took a mortgage from a private person.

(*c*) Now the Public Health Act, 1875, s. 233 *et seq.* (*Lumley*, p. 270.)

of consolidated stock created under the Metropolitan Board of Works (Loans) Act, 1869, and in any other case on the security of the local rates (*d*). Such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority, and shall bear interest at the rate of three-and-a-half per cent. per annum, or such higher rate as may in the judgment of the Treasury be necessary to enable the loan to be made without loss to the Exchequer (*e*).

Any limit imposed on or in respect of local rates by any Act of Parliament other than this Act shall not apply to any rate required to be levied for the purpose of defraying any expenses under this Act.

Audit of accounts.

XXIII. The accounts of the Commissioners of Sewers and the accounts of the Metropolitan Board of Works under this Act shall respectively be audited in the same manner and with the same power in the officers auditing the same in which the accounts of those bodies, when acting in their capacities of Commissioners of Sewers and Metropolitan Board of Works, are for the time being required to be audited by law.

The accounts of an urban sanitary authority under this Act shall be audited in the same manner and with the same power in the officers auditing the same in which the accounts of that authority in its character of sanitary authority are for the time being required to be audited by law (*f*).

PART III.

General Provisions.

Provision where local authority has no seal.

XXIV. Any petition or document proceeding from a local authority may be authenticated by their seal where such authority have a seal (*g*), and in any other case by the signature of any two or more members of the local authority, or in such other manner as the confirming authority may require.

Notices.

Service of notice on the local authority.

XXV. Any notice required to be served upon the local authority may be lawfully served by delivering the same to the clerk of the local authority, or leaving the same at his office with some person employed there by him.

(*d*) That is, in the case of an urban authority on the security of the general district rate.

(*e*) Loans made before the 31st December may bear interest at as low a rate as three one-eighth per cent., with the consent of the Commissioners of the Treasury. 48 & 49 Vict. c. 72, s. 6, *ante*, p. 19.

(*f*) See section 245 and the following sections of the Public Health Act, 1875. (*Lumley*, p. 281.)

(*g*) Local boards and improvement commissioners have a seal. See the Public Health Act, 1875, s. 7. (*Lumley*, p. 19.)

Appndx.

Power of confirming authority as to advertisements and notices.

XXVI. The confirming authority may from time to time by order prescribe the forms of advertisements and notices under this Act (*a*); it shall not be obligatory on any persons to adopt such forms, but the same, when adopted, shall be deemed sufficient for all the purposes of this Act (*b*).

Power of confirming authority to dispense with notices in certain cases.

XXVII. The confirming authority may, on the consideration of any petition of a local authority for an order confirming a scheme, dispense with the publication of any advertisement, or the service of any notice, proof of which publication or service is not given to them as required by this Act, where reasonable cause is shown to their satisfaction why such publication or service should be dispensed with, and such dispensation may be made by the confirming authority, either unconditionally or upon such condition as to the publication of other advertisements and the service of other notices or otherwise as the confirming authority may think fit, due care being taken by the confirming authority to prevent the interest of any person being prejudiced by the fact of the publication of any advertisement or the service of any notice being dispensed with in pursuance of this section.

Authentication of notices served by the local authority.

XXVIII. Any notice served by the local authority for the purposes of this Act may be signed by the clerk of the local authority.

Penalties.

Penalty for obstructing officers in execution of Act.

XXIX. Where any person obstructs the officer of health or any officer of the local or confirming authority acting in the performance of anything which the local or confirming authority are by this Act required or authorized to do, every person so offending shall, on summary conviction, for every such offence forfeit a sum not exceeding twenty pounds (*c*).

Saving Clauses.

Relation of local Acts to general Acts.

XXX. Where in any place to which this Act applies, any local Act is in force providing for objects the same as or similar to the objects of this Act, the enactments of such local Act may be enforced at the discretion of the local authority either instead of or in concurrence with this Act; provided that the local authority of any place to which this Act applies shall not, by reason of any local Act within its jurisdiction, be exempted from the performance of any duty or obligation to which such authority are subject under this Act.

(*a*) This has been done by the Local Government Board by a General Order, dated 5th November, 1875. The order will be found in Glen's Local Government Orders, p. 535.

(*b*) It will manifestly be prudent to adopt these forms in all cases.

(*c*) This penalty may be recovered on the information of any person. See section 3, note (*c*), *ante*, p. 75.

Definitions.

XXXI. The expressions hereinafter mentioned shall respectively have the meanings hereby assigned to them, unless there is something in the context inconsistent with such meanings; that is to say, Definitions of terms of Act.

"Secretary of State" means one of Her Majesty's principal Secretaries of State: "Secretary of State."

"Person" shall include a body of persons, corporate or unincorporate: "Person."

"Lands" shall include messuages, lands, tenements, and hereditaments of any tenure, and any right over land: "Lands."

"The city of London" shall include the liberties thereof: "The city of London."

"The metropolis" shall not include the city of London or the liberties thereof, but shall include all other parishes or places within the jurisdiction of the Metropolitan Board of Works: "The metropolis."

"A district board or vestry" within the metropolis means a district board or vestry as incorporated by the Metropolis Management Act, 1855: "A district board or vestry."

"Medical officer of health" shall, in the case of Ireland, mean consulting sanitary officer: "Medical officer of health."

"Local Government Board" shall, in the case of Ireland, mean Local Government Board of Ireland: "Local Government Board."

"Clerk of local authority" shall, in the case of Ireland, mean executive sanitary officer and acting clerk: "Clerk of local authority."

"Superior courts" shall mean, in the case of Ireland, Her Majesty's superior courts in Ireland: "Superior courts."

"The Treasury" shall mean the Lords Commissioners of the Treasury, or any two of them: "The Treasury."

"This Act" includes any confirming Act as hereinbefore defined (*d*). "This Act."

SCHEDULE.

PROVISIONS WITH RESPECT TO THE PURCHASE AND TAKING OF LANDS IN ENGLAND OTHERWISE THAN BY AGREEMENT, AND OTHERWISE AMENDING THE LANDS CLAUSES ACT, 1845 (*e*).

Deposit of Maps and Plans.

(1.) The local authority shall as soon as practicable after the passing of the confirming Act (*f*) cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily (which lands

(*d*) See section 6, *ante*.
(*e*) See section 19, *ante*.
(*f*) That is, the Act confirming the provisional order. See section 6, *ante*.

Appndx.

are hereinafter referred to as the scheduled lands), together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2.) The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

(3.) The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority (*a*).

Appointment of Arbitrator.

(4.) After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator between the local authority and the persons interested in such of the scheduled lands, or lands injuriously affected by the execution of such scheme, so far as compensation for the same has not been made the subject of agreement (*b*).

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Payment of Purchase Money.

(14.) Within thirty days from the delivery of such statement and abstract as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award (*c*).

(15.) Every such certificate shall be prepared by and at the costs of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

(16.) The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases hereinafter mentioned, the amount of moneys

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(*a*) In the case of an urban authority, the original maps must be deposited at the office of the Local Government Board, and copies must be kept at the office of the urban authority. The original maps, &c., are afterwards delivered to the arbitrator. 45 & 46 Vict. c. 54, Schedule I. (6), *post*.

(*b*) Note that one arbitrator is appointed to act for both parties. Clauses 5—13 are repealed and replaced by the 45 & 46 Vict. c. 54, *post*. Some important amendments are also found in the 42 & 43 Vict. c, 63, schedule, *post*. See that schedule for the notices to be given as to the appointment of the arbitrator.

(*c*) That is, the award made as provided by the 45 & 46 Vict. c. 54, schedule. Note that this clause is compulsorily; the next is permissive.

specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns.

(17.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the local authority in any of Her Majesty's superior courts of law at Westminster, or in any court to which the jurisdiction of such courts may be transferred, for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the local authority, authorised to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases (*d*); and all moneys payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid (*e*).

(18.) When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases hereinafter mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the local authority, upon obtaining such receipt as hereinafter mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

(19.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a receipt for the same (*f*), and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such moneys are paid, provided such receipt has an *ad valorem* stamp of the same amount impressed thereon in respect of the purchase moneys mentioned in such certificate as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the costs of the local authority.

(20.) If it appear to the local authority, from any such statement and abstract as aforesaid (*g*), or otherwise, that the party making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily

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(*d*) For the practice in signing judgment, see *Chitty's Archbold's Practice*, p. 1316.

(*e*) This is an important provision. As to the entry of the local authority, see the next clause.

(*f*) This receipt will be an important document of title, and should therefore be carefully drawn, showing the lands to which it relates and the interest of the party. A better plan will be to state these matters in the certificate, and then to refer to the certificate in the receipt.

(*g*) These words referred to the clauses of this schedule now repealed. They now refer to the statement and abstract mentioned in the schedule to the 45 & 46 Vict. c. 54, clause (*f*).

Appndx. deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of "The Lands Clauses Consolidation Act, 1845," as amended by "The Court of Chancery Funds Act, 1872," "with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title" (*a*).

(21.) Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or tendered refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of England, in manner provided by the last-mentioned clauses of "The Lands Clauses Consolidation Act, 1845" (*b*), as amended by "The Court of Chancery Funds Act, 1872," and the amount so paid into the said bank shall be accordingly dealt with as by the said Act provided.

(22.) Nothing herein contained shall prevent the local authority from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement hereinbefore mentioned (*c*), if they think fit, so as the same be obtained at the costs of the local authority.

(23.) If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the costs and charges of the local authority, be enforced by any party or parties, by application to the High Court of Chancery, or any court to which the jurisdiction of the High Court of Chancery may be transferred (*d*), in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

Entry on Lands on making Deposit.

(24.) Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions hereinbefore contained, it shall be

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(*a*) See the Lands Clauses Act, 1845, ss. 69—80. The Court of Chancery Funds Act, 1872, is the 35 & 36 Vict. c. 44. By that Act the office of Accountant-General of the Court of Chancery was abolished, and his duties transferred to the Paymaster-General.

(*b*) Sections 75 and 76. See last note.

(*c*) See note (*g*), *ante*, p. 91.

(*d*) The petition must now be addressed to the Chancery Division of the High Court of Justice.

lawful for the local authority, at any time after the arbitrator has framed his provisional award (*e*), upon depositing in the Bank of England such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorized to be purchased or taken by the local authority, and mentioned in such provisional award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority (*f*); and the arbitrator shall, upon the request of the local authority, at any time after he has framed such provisional award (*e*), certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such provisional award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such provisional award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other proceedings under this Act, shall be had, and payments made, as if such entry and deposit had not been made; provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of this Act, such compensation is required to be paid into the said bank, then until the same, with such interest, is paid into such bank accordingly; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

(25.) The money so deposited as last aforesaid shall be paid into the Bank of England to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in the bank in similar cases, or to such account as may be directed by any order of the Court of Chancery, or of any court to whom the powers of the Court of Chancery may be transferred, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon, for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator (*g*); and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in bank annuities or government securities, and accumulated; and

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(*e*) The provisional award is now abolished, and the award is final in the first instance.

(*f*) The object of this provision is "to entitle the local authority to enter upon land for the purposes of improvement, although the purchase is not completed." Per GROVE, J., in *Barnet* v. *Metropolitan Board of Works*, 46 L. T. (N.S.) 384.

(*g*) The money does not become payable until after the final award is made. The ownership does not pass until after the date of the award. *Barnet* v. *Metropolitan Board of Works*, *supra*. As to the payment of money out of court under these clauses, see *Ex parte Jones*, 14 Ch. D. 624.

Appndx. upon such payment as aforesaid by the local authority it shall be lawful for the Court of Chancery, or any other court to which the jurisdiction of the Court of Chancery may be transferred, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

Appeal.

(26.) Where the party named in any certificate issued under the provisions hereinbefore contained of the amount of the compensation ascertained by any award under this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds five hundred pounds (*a*); and

Where any party claiming any interest in any moneys so paid into court as aforesaid is dissatisfied with the amount of the price or compensation in respect of which such moneys are paid into court, and such amount exceeds five hundred pounds (*a*); also

Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceed the sum of five hundred pounds (*a*);

The party dissatisfied may submit the question of the proper amount of compensation to a jury (*b*), provided that such party give notice in writing to the other party of their intention to appeal within ten days (*c*) after the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen,—

(1.) Where a certificate has been issued as aforesaid (*d*), at the date of the issue of the certificate:

(2.) Where moneys have been paid into court (*e*), at the date of the payment into court:—

(3.) Where the local authority appeals, at the date of the making of the final award.

(27.) Where a notice has been given under this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have arisen within the meaning of the Lands Clauses Consolidation Act, 1845, and all the provisions of that Act contained in sections thirty-eight to fifty-seven, both inclusive,

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(*a*) Now 1,000*l*. See 45 & 46 Vict. c. 54, Sched. (G).

(*b*) This appeal is now taken away, unless the leave of a judge is obtained. This leave may be applied for at chambers. The judge must be satisfied that a failure of justice will take place if the leave is not granted.

(*c*) The ten days must be reckoned exclusive of the day on which the cause of appeal has arisen. Thus, if the cause of appeal arose on the 1st January, the last day for giving notice would be the 11th.

(*d*) See clauses 14 and 15, *ante*.

(*e*) See clauses 20 and 21, *ante*.

shall be deemed to apply, except sections forty-seven and fifty-one: Provided also, that,— Appndx.

(1.) Where the local authority appeals, that authority shall be deemed to be the plaintiff, and the party entitled to compensation to be the defendant; and

(2.) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of issues tried in the Court of Queen's Bench, or any court to which the jurisdiction of the Court of Queen's Bench may be transferred (*f*); but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial, to be taxed and ascertained in the manner aforesaid.

(3.) Where the local authority is the appellant,—

(1.) Notwithstanding the verdict of the jury may be for a sum less than that awarded by the arbitrator, the local authority shall pay to the other party such sum not exceeding twenty pounds for the costs of the trial as the sheriff or other officer before whom the same is tried shall direct (*g*); and,

(2.) In case the verdict of the jury is for a sum equal to or exceeding the award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.

(4.) The amount of compensation awarded by the arbitrator shall not be communicated to the jury (*h*), but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

Costs of Arbitration.

(28.) The salary or remuneration, travelling and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of this Act into execution (*i*), shall be paid by the local authority; and the amount of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the local authority; and every certificate

(*f*) Where on appeal a larger sum is given by a jury, and the difference between the two sums is subsequently paid into court, interest at 4 per cent. per annum from the date of the first payment to the date of the second payment in is payable on such difference. *In re Shaw and the Corporation of Birmingham*, 27 Ch. D. 614.

(*g*) This sum is payable to the defendant, even if the local authority succeed in getting a reduction of the sum awarded.

(*h*) If the amount were communicated, it might be ground for obtaining a new trial. But in many cases the jury may know the amount of their own knowledge.

(*i*) These costs and charges are not payable until certified by the confirming authority. 45 & 46 Vict. c. 54, Sched. (H).

Appndx. of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly. Further, any such certificate may be made a rule of one of the superior courts of law on the application of any party named therein, and may be enforced accordingly (*a*),

(29.) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority (*b*) ; and if within seven days after demand the amount so certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from such local authority, with interest at the rate of five per cent. for any time during which the same remains unpaid after such seven days as aforesaid, but no such certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of such claim before the appointment of the arbitrator.

Miscellaneous.

(30.) The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim under the provisions of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under this Act, and may examine any such party and his witnesses, and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose.

(31.) If any arbitrator appointed in pursuance of this Act die, or refuse, decline, or become incapable to act, the confirming authority may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the *London Gazette*.

(32.) All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no other form of service is prescribed all notices required to be served or given by the local authority under this schedule or otherwise upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by this Act to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers (*c*).

(*a*) See section 6, note (*c*), *ante*, p. 78.

(*b*) But the arbitrator need not certify if he is of opinion that such costs are not properly payable by the local authority.

(*c*) That is, in manner prescribed by section 6, *ante*.

THE ARTIZANS AND LABOURERS DWELLINGS IMPROVEMENT ACT, 1879.

(42 & 43 Vict. Cap. 63.)

An Act to amend the Artizans and Labourers Dwellings Improvement Act, 1875. [15th August, 1879.]

Appndx.

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and construction of Act. 38 & 39 Vict. c. 36.

I. This Act may be cited as the Artizans and Labourers Dwellings Improvement Act, 1879.

This Act shall be construed as one with the Artizans and Labourers Dwellings Improvement Act, 1875 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Artizans and Labourers Dwellings Improvement Acts, 1875 and 1879.

Amendment of schedule to principal Act.

II. The schedule to the principal Act shall be construed as if the schedule to this Act formed part thereof.

As to assessment of compensation.

III. On the occasion of assessing the compensation payable under any improvement scheme in respect of any house or premises situate within an unhealthy area (*d*), evidence shall be receivable by the arbitrator to prove that at the date of the confirming Act authorizing such scheme, or at some previous date not earlier than the date of the official representation in which the scheme originated, such house or premises was, by reason of its unhealthy state, or by reason of overcrowding or otherwise, in such a condition as to have been a nuisance within the meaning of the Acts relating to nuisances (*e*); and if the arbitrator is satisfied that from either of such causes as aforesaid, such house or premises was, at such dates as aforesaid, or either of them, a nuisance as aforesaid, he shall then determine what would have been the value of such house or premises supposing the nuisance to have been abated, and what would have been the expense of abating the nuisance; and the amount of compensation payable in respect of such house or premises shall be an amount equal to the estimated value of the house or premises after the nuisance was abated, and after deducting the estimated expense of abating the nuisance.

Amendment of 38 & 39 Vict. c. 36, s. 5, as to the

IV. Whereas by the fifth section of the principal Act (*f*) it is provided, amongst other things, that an improvement scheme of a local authority shall provide for the accommodation of at least as many

(*d*) See 38 & 39 Vict. c. 36, s. 3, *ante*, p. 75.

(*e*) That is, of the Public Health Act, 1875, s. 91. See section 5 of this Act, *post*.

(*f*) See this section, *ante*, p. 75. See also note (*c*), p. 80, *ante*, as to the effect of this section and others on the same subject.

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provision of accommodation for the working classes.

persons of the working classes as may be displaced in the area with respect to which the scheme is proposed in suitable dwellings which, unless there are special reasons to the contrary, shall be situate within the limits of the same area or in the vicinity thereof:

And whereas it not unfrequently happens that, having due regard to the requirements of persons of the working classes displaced by an improvement scheme, equally convenient accommodation at a much less cost can be furnished to such persons or some of them at some place other than within the area or the immediate vicinity of the area from which they have been displaced: Be it enacted that—

Where it is proved to the satisfaction of the confirming authority (*a*) on an application to authorize or modify an improvement scheme that equally convenient accommodation can be provided for any persons of the working class displaced by an improvement scheme at some place other than within the area or the immediate vicinity of the area comprised in the improvement scheme, and it is also proved to the satisfaction of such authority that the required accommodation has been or is about to be forthwith provided, it shall be lawful for the confirming authority accordingly to authorize any such improvement scheme, or to permit a modification of any such scheme, and the requirements of the principal Act with respect to providing accommodation for persons of the working class shall, to the extent to which accommodation is provided in accordance with this section, be deemed to have been complied with (*b*).

A local authority may, for the purpose of providing accommodation for persons of the working classes displaced by any improvement scheme, appropriate any lands for the time being belonging to them which are suitable for the purpose (*c*), or may purchase by agreement any such further lands as may be convenient.

Definition of "Acts relating to nuisances." 41 & 42 Vict. c. 52.

V. The Acts relating to nuisances mean—

As respects any place in Ireland, the Public Health (Ireland) Act, 1878, and any local Act which contains any provisions with respect to nuisances in that place; and

38 & 39 Vict. c. 55.

29 & 30 Vict. c. 41.

As respects the metropolis, as defined by the Public Health Act, 1875, the Nuisances Removal Acts as defined by the Sanitary Act, 1866, or any Act amending the same, and any local Act which contains any provisions with respect to nuisances in that place; and

38 & 39 Vict. c. 55.

As respects any other place in England, the Public Health Act, 1875 (*d*), and any local Act which contains any provisions with respect to nuisances in that place.

(*a*) See 38 & 39 Vict. c. 36, s. 6, *ante*.

(*b*) This does not take away the necessity for providing this accommodation. It merely enables the local authority to provide it elsewhere than within the area or immediate vicinity. But see now the later provisions of 45 & 46 Vict. c. 54, s. 3, *post*, p. 100, the effect of which is stated, *ante*, p. 80, note (*c*).

(*c*) This power is apparently to be exercised without regard to the object for which such lands were originally acquired: *sed quære?*

(*d*) Section 91 and following sections.

SCHEDULE.

Appndx.

1. The publication by the local authority of the appointment of the arbitrator, and the other particulars mentioned in article six of the Schednle to the principal Act (*e*), shall be made not only by advertisement, but also by placards and handbills affixed in conspicuous places on or near the lands to be taken, and also by leaving a notice thereof at each house proposed to be taken, and also by sending a notice thereof by post to the persons interested in such lands as owners or reputed owners, lessees or reputed lessees, so far as they can be reasonably ascertained. Notice of appointment of arbitrator.

2. The arbitrator shall have the same power of apportioning any rent-service, rent-charge, chief or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845 (*f*). Power of arbitrator as to apportionment.

3. Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845 (*g*), the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determine, may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the greater part of the whole of such house, building, or manufactory. Amendment respecting severance of properties. 8 & 9 Vict. c. 18.

The local authority, or any person interested, if dissatisfied with a determination under this enactment, may, in manner provided by article twenty-six of the schedule to the principal Act, submit the question of whether the said part can be taken without material damage, as well as the question of the proper amount of compensation, to a jury; and the notice of intention to appeal shall be given within the same time as notice of intention to appeal against the amount of compensation awarded is required to be given (*h*).

4. The amount of purchase-money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right, or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertance failed or omitted duly to purchase or make compensation for, shall be awarded by the arbitrator and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to the arbitrator before the day fixed for the delivery of statements of claims; with this qualification, that the first award of the arbitrator shall be final, and not provisional (*i*). Omitted interests.

If the arbitrator is satisfied that the failure or omission to purchase the said estate, right, interest, or charge arose from any default on the part either of the claimant or of the local authority, he may direct the costs to be paid by the party so in default.

(*e*) Art. 6 is now repealed and replaced by 45 & 46 Vict. c. 54, Sched. (*b*), *post*.

(*f*) Section 116.

(*g*) This is the section which enables an owner to compel the taking of an entire house, of which part only is required by the promoters.

(*h*) This right of appeal is unqualified. No leave to appeal is necessary

(*i*) Provisional awards are now abolished. All awards are final.

THE ARTIZANS DWELLINGS ACT, 1882.

(45 & 46 Vict. Cap. 54.)

An Act to amend the Artizans and Labourers Dwellings Acts.
[18*th August*, 1882.]

Appndx. Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short title

I. This Act may be cited as the Artizans Dwellings Act, 1882.

PART I. (*a*).

Artizans and Labourers Dwellings Improvement Acts, 1875 *and* 1879.

Construction of Part I. of Act. 38 & 39 Vict. c. 36. 42 & 43 Vict. c. 63.

II. This part of this Act shall be construed as one with the Artizans and Labourers Dwellings Improvement Acts, 1875 and 1879, and those Acts together with this part of this Act may be cited together as the Artizans and Labourers Dwellings Improvement Acts, 1875 to 1882.

Amendment of 38 & 39 Vict. c. 36, s. 5, as to the provision of accommodation for the working classes.

III. Whereas by section five of the Artizans and Labourers Dwellings Improvement Act, 1875, it is provided, amongst other things, that an improvement scheme of a local authority shall provide for the accommodation of at the least as many persons of the working class as may be displaced in the area with respect to which the scheme is proposed in suitable dwellings which, unless there are special reasons to the contrary, shall be situate within the limits of the same area or in the vicinity thereof :

And whereas by section four of the Artizans and Labourers Dwellings Improvement Act, 1879, it is provided that the above requirements of section five of the Artizans and Labourers Dwellings Improvement Act, 1875, may, if the confirming authority so authorize, be complied with by the provision of equally convenient accommodation at some place other than within the area or the immediate vicinity of the area comprised in such scheme :

And whereas it is expedient to make further provision respecting such accommodation : Be it therefore enacted as follows :

Where an improvement scheme of a local authority comprises an area situate in the metropolis or the city of London, the confirming authority shall, without prejudice to the powers conferred on it by the said fourth section of the Artizans and Labourers Dwellings Improvement Act, 1879, be authorised (on the application of the local authority, and on a report being made by the officer conducting the local inquiry directed by the confirming authority that it is expedient, having regard to the special circumstances of the locality and to the number of artizans and

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(*a*) Part II. of this Act belongs to the Second Group of Acts, and will be found in its place in that group, *ante*, p. 69.

others belonging to the labouring class dwelling within the area, and being employed within a mile thereof, that a modification should be made) to dispense in the provisional order authorising the scheme altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by their scheme to such extent as he may think expedient, having regard to such special circumstances as aforesaid, but not exceeding one-half of the persons so displaced, and where any such improvement scheme comprises an area situate elsewhere than in the metropolis or the city of London, it shall, if the confirming authority so require (but it shall not otherwise be obligatory on the local authority so to frame their scheme), provide for the accommodation of such number of those persons of the working class displaced in the area with respect to which the scheme is proposed in suitable dwellings to be erected in such place or places either within or without the limits of the same area as the said authority, on a report made by the officer conducting the local inquiry, may require (*b*).

The twelfth section of the Artizans and Labourers Dwellings Improvement Act, 1875, and any other enactment relating to the requirement of the said Act as to the accommodation of the working classes, shall be construed with reference and subject to the modifications made by this Act (*c*).

The power by this section given to the confirming authority to dispense altogether with the obligation of the local authority to provide for the accommodation of the persons of the working class who may be displaced by their scheme to an extent not exceeding one-half of the persons so displaced may (in the case of any scheme which has, before the passing of this Act, been authorised by a confirming Act) upon the application of the local authority be exercised by the confirming authority by an order made at any time within twelve months after the passing of this Act. (*d*)

Amendment of 38 & 39 Vict. c. 36, s. 19, as to the valuation of land.

IV. Whereas it is expedient to amend section nineteen of the Artizans and Labourers Dwellings Improvement Act, 1875 (*e*): Be it therefore enacted as follows:

(*b*) The effect of this section has been already stated. See the note to 38 & 39 Vict. c. 36, s. 12, *ante*, p. 80.

(*c*) Section 12 of the Act of 1875 gave power to the confirming authority to modify a scheme, after it had been authorised by the confirming Act. The exercise of this power depended upon its being proved to the satisfaction of the confirming authority that due provision had been made or secured for the accommodation in suitable dwellings of as many persons of the working classes as might be displaced in the area, either in manner provided by the scheme, or in some other manner, or would be more advantageously made or secured under the proposed alteration. The provision is necessarily modified by the text. Section 12 of the Act of 1875 will not now be conditioned for the provision of accommodation as already mentioned, except in cases where it is obligatory to provide such accommodation. As already stated in note (*c*) to section 12 of the Act of 1875 (*ante*, p. 80), it is no longer obligatory to provide such accommodation in the metropolis to a greater extent than one-half, if the officer conducting the enquiry reports, and the confirming authority on such report dispenses with it, or elsewhere than in the metropolis, unless the confirming authority expressly so require.

(*d*) This power, the exercise of which is confined to the metropolis, is now spent, as the claim ceased to be operative after the 18th August, 1883.

(*e*) See this section, *ante*, p. 83.

Appndx.

In the estimate of the value of the said lands, or interests in the said section in that behalf mentioned, any addition to or improvement of the property made after the date of the publication of an advertisement in pursuance of section six of the said Act, stating the fact of the improvement scheme having been made, shall not (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repairs) be included, nor in the case of any interest acquired after the said date, shall any separate estimate of the value thereof be made so as to increase the amount of compensation to be paid for the lands, and the words "and all circumstances affecting such value" in the said section are hereby repealed (*a*).

Amendment of schedule to 38 & 39 Vict. c. 36.

V. There shall be repealed so much of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, as is comprised under the heading "Proceedings on Arbitration," that is to say, articles numbered (5) to (13), both inclusive, and there shall be substituted therefor the articles contained in the schedule hereto: Provided that such repeal shall not affect anything duly done or suffered under any provision hereby repealed.

Limit of area to be dealt with on official representation.

VI. Where an official representation made to the Metropolitan Board of Works in pursuance of the Artizans and Labourers Dwellings Improvement Act, 1875, relates to not more than ten houses, the Metropolitan Board of Works shall not take any proceedings on such representation, but shall direct the officer making the same to report the case to the local authority as defined by the Artizans and Labourers Dwellings Act, 1868, and it shall be the duty of the local authority to deal with such case in manner provided by the last-mentioned Act, and the Acts amending the same (*b*).

31 & 32 Vict. c. 130.

(*a*) It should be noticed that this section was not in force when the action of *Wilkins* v. *Mayor, &c., of Birmingham*, 25 Ch. D. 78; 32 W. R. 118; 49 L. T. (N.S.) 468, was commenced. There it was held, independently of this section, that the publication of the requisition under section 6 of the schedule to the Act of 1875, was analogous to the notice to treat under the Lands Clauses Act, and that a landowner affected by it could not afterwards change his position, or obtain an increased interest in premises so as to entitle him to increased compensation.

(*b*) The effect of this section is to transfer the duty of providing a remedy from the Metropolitan Board of Works to the district boards or vestries, as the local authorities under the second group of Acts.

SCHEDULE.

Amendment of Schedule to 38 & 39 Vict. c. 36.

(1.) In lieu of articles eight (*c*) to thirteen (both inclusive) of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, the following articles shall be substituted; that is to say,— Appndx.

Proceedings on Arbitration.

(*a.*) Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration; that is to say,—

"I, *A. B.*, do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Artizans and Labourers Dwellings Improvement Act, 1875.

"*A. B.*

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration, wilfully act contrary thereto, he shall be guilty of a misdemeanor.

(*b.*) As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office (*d*), and the local authority shall publish once in each of three successive weeks the following particulars:—

(1.) The appointment of the arbitrator; and

(2.) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same (*e*).

(*c.*) In every case in which compensation is payable under the Artizans and Labourers Dwellings Improvement Act, 1875, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain in such manner as he thinks most convenient the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay; and after hearing all

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(*c*) *Eight* is here evidently a mistake for *five*. See section 5, *ante*.
(*d*) See the 38 & 39 Vict. c. 36, schedule, ss. 1-3.
(*e*) The publication of the requisition to owners required by the previous Act is here dispensed with.

Appndx.

such parties interested (*a*) in each disputed case may appear before him at a time and place of which notice has been given as in this Act mentioned (*b*), he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled to in each case.

(*d.*) The arbitrator shall from time to time give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases as to the amount of compensation to be paid will be decided by the arbitrator (*c*).

(*e.*) After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive (subject to the provisions concerning an appeal hereinafter contained) upon all persons whomsoever, and no such award shall be set aside for irregularity in matter of form (*d*).

(*f.*) Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further notice requiring all persons claiming to have any right to or interest (*e*) in the lands (the compensation to be paid in respect of which is ascertained by such award) to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which

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(*a*) In a case decided on the repealed schedule, the Metropolitan Board of Works served on the plaintiff, the lessee of property required for an improvement scheme, a notice for him to send in a statement as to the nature of his claim. This was done, but the arbitrator appointed under the Act, through some omission, did not include the plaintiff's interest in his provisional award. The plaintiff subsequently received a two days' notice to attend before the arbitrator that his claim might be considered. He attended accordingly, though under protest, and stated his claim, which was considered by the arbitrator, who altered his provisional award by inserting the amount of compensation awarded by him to the plaintiff in respect of his interest. This was confirmed by the final award. In an action to set aside the award it was held that, notwithstanding the omission of the plaintiff's interest from the provisional award, he was a "person interested" therein within the meaning of the corresponding clause in the schedule to the Act of 1875 (now repealed), that the proceedings of the arbitrator in considering his claim under that clause, and in altering his provisional award, were regular, and that the final award was good. *Carr* v. *Metropolitan Board of Works*, 14 Ch. D. 807; 49 L. J. Ch. 272; 42 L. T. (N.S.) 354.

(*b*) See the next clause.

(*c*) As to the principle upon which such compensation is to be assessed, see section 19 of the Act of 1875, and the notes to that section, *ante*, p. 83.

(*d*) The provisional award is now abolished, and the award is final in the first instance.

(*e*) See note (*a*), *supra*.

the same is founded; and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years, previous to the claim when the abstract shall commence with such conveyance.

(*g.*) Any person or local authority dissatisfied with the amount of compensation awarded may, where such amount exceeds one thousand pounds, but not otherwise, appeal in manner provided by article twenty-six of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, and that article shall be construed as if one thousand pounds were therein substituted for five hundred pounds.

(*h.*) The costs, charges, and expenses payable by the local authority under article twenty-eight of the schedule to the Artizans and Labourers Dwellings Improvement Act, 1875, shall not be payable until the amount has been certified by the confirming authority (*f*).

(*i.*) Notwithstanding anything contained in article twenty-nine of the said schedule, the arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration in any case where he considers that such costs are not properly payable by the local authority (*g*).

(*f*) This clause refers to the arbitrator's costs.

(*g*) This clause refers to the claimant's costs. It gives the arbitrator a discretion as to allowing costs.

APPENDIX B.

The following Digest of Cases decided since the publication of the Second Edition of *Lumley's Public Health Acts*, has been prepared with the view of rendering that Work, as supplemented by the present Treatise, complete to the end of the year 1885. It will be found that the cases selected are not limited to those decided upon the Public Health Acts only. Those decided upon the Metropolis Management Acts and other statutes have been included where they tend to throw any light on the construction of the statutes included in the Work to which this little Book is a Supplement.

DIGEST OF CASES.

Section 4 (p. 7); section 150 (p. 159). Under the Metropolis Management Acts, W., having a strip of land about four inches wide and two hundred and sixty-five in length, abutting upon the north side of a new street, had erected a boundary fence upon the land along its whole extent, under a covenant to erect and for ever after maintain a fence thereon made with his vendor, who was owner of the land adjoining the strip on the north side. Held, that W. was the owner of the strip of land within the meaning of 25 & 26 Vict. c. 102, s. 250, and therefore liable to contribute towards the expense of paving the new street. *Williams* v. *Wandsworth Board of Works*, 13 Q. B. D. 211; 53 L. J. M. C. 187; 32 W. R. 908; 48 J. P. 439.

Section 4 (p. 8); section 150 (p. 160). Under the corresponding sections of the Metropolis Management Acts, the trustees of a Wesleyan Chapel were held to be owners of the chapel, and that the chapel was a house or land abutting on a new street. *Wright* v. *Ingle*, W. N. 1885, p. 210. (As to the second point above decided, see section 151 of the Public Health Act, 1875, p. 168.)

Section 4 (p. 10). A builder made drains from certain houses in a road to the boundary of the forecourts of the houses. The road was what is known as a builder's road, made and coated with gravel, and ballasted. The footpaths were made with gravel, and kerbed with granite. The houses on either side of the road were not completed and inhabited, but the road was open for carriages and foot passengers. It was lighted by the parish, but had not been taken to as a public road. The vestry made branches from the drains into a sewer which belonged to them, and ran along the centre of the road; and for that purpose they opened the road and footway. The builder declined to repay to the vestry the expenses incurred thereby. Held (1.) That the road was not the less a street within the definition in section 250 of the Metropolis Management Act, 1855, and section 112 of the Metropolis Management Act, 1862, because it came within the definition of a new street in the last-mentioned section. (2.) That section 78 of the Metropolis Management Act,

1855, which authorizes the opening of the pavement of any street for the purpose of branching private drains into a sewer, applies equally to streets and to new streets. (3.) That looking to the definition of the word "pave" in section 112 of the Metropolis Management Act, 1862, the road was paved. That consequently the vestry had opened a part of the pavement of a street, and were entitled under section 78 of the Metropolis Management Act, 1855, to recover the expenses incurred by them. *Vestry of St. John, Hampstead*, v. *Hoopel*, 15 Q. B. D. 652; 54 L. J. M. C. 147; 33 W. R. 903; 49 J. P. 740.

Section 4 (p. 13); section 13 (p. 27). A sewer made by the owner of only some of the houses in a street not yet a highway, though made for the purpose of draining his own, amongst other houses, is not a sewer made by a person "for his own profit" within the meaning of the exception in section 13 of the Public Health Act, 1875. The word "sewer" in that Act should receive the largest possible interpretation, and a drain is a "sewer" within the meaning of section 13 when more than one house has been connected with it. *Acton Local Board* v. *Batten*, 28 Ch. D. 283; 54 L. J. Ch. 251; 52 L. T. (N.S.) 17; 49 J. P. 357.

Section 12 (p. 26); section 17 (p. 35); section 271 (p. 326). A serious nuisance having been admittedly caused by the mode of dealing by a rural sanitary authority with the sewage of the district, the dissolution of the rural authority, and the constitution, by order of the Local Government Board, of an urban sanitary authority over the district, with the rights, powers, duties, &c., of the old board, does not absolve the new board from liability to an injunction for continuing the nuisance without taking any effectual steps to remedy it. Eleven months having elapsed since the constitution of the new board, the operation of the injunction was suspended for two months only. *Taylor* v. *Friern Barnet Local Board*, W. N. 1885, p. 7.

Section 17 (p. 33). The town of H. having long drained into the river L., the N. company obtained a local Act to make a sewer and intercept the sewage and purify it, and then discharge the effluent water into the river L., all inhabitants of H. being at the same time prohibited from draining direct into the river. The Act stated that the N. company should not discharge sewage water into the river L. until after being purified by the best known process. Held, that the statutory provisions superseded all common law rights; that the N. company, or its statutory assignees, were entitled to discharge the effluent water, after being purified by the best process; and that no action lay against the N. company or assignees for polluting the river, though that process was still imperfect. *Lea Conservancy Board* v. *Mayor of Hertford*, 48 J. P. 628; 1 C. & E. 299.

Section 17 (p. 34). An injunction to restrain the defendants from polluting a stream was granted in January, 1885, with a suspension of the order for three months, which the court in April refused to extend. On motion by the plaintiff under R. S. C., Order 42, Rule 31, for sequestration: held, that Order 41, Rule 5, requiring service of a copy of the order, &c., did not apply; and that notwithstanding Order 43, Rule 16, the plaintiff was proceeding regularly in applying for leave to issue sequestration. *Selous* v. *Croydon Local Board*, W. N. 1885, p. 105; L. J. N. C. 1885, p. 100; 53 L. T. (N.S.) 209.

Section 17 (p. 35). In order to maintain a *quia timet* action to restrain an apprehended injury, the plaintiff must prove imminent danger of a substantial kind, or that the apprehended injury, if it does come, will be irreparable. The plaintiff was a manufacturer of paper, his mills being situate on the bank of a river, the water of which he used to a large extent in his process of manufacture, for which it was essential that the water should be very pure. The defendants, who were alkali manufacturers, were depositing on a piece of land close to the river, and about one mile and-a-half higher up than the plaintiff's mills, a large heap of refuse from their works. It was proved that in the course of a few years a liquid of a very noxious character would flow from the heap, and would continue flowing for forty years or more; and that if this liquid should find its way into the river to any appreciable extent, the water

Appndx.

would be rendered unfit for the plaintiff's manufacture, and his trade would be ruined. The plaintiff did not allege that he had as yet sustained any actual injury. The defendants said that they intended to use all proper precautions to prevent the noxious liquid from getting into the river. Held, that it being quite possible, by the use of due care, to prevent the liquid from flowing into the river; and it being also possible that before it began to flow from the heap some method of rendering it innocuous might have been discovered, the action could not be maintained, and must be dismissed, with costs. But the dismissal was expressly declared to be without prejudice to the right of the plaintiff to bring another action hereafter, in case of actual injury or imminent danger. *Fletcher* v. *Bealey*, 28 Ch. D. 688; 54 L. J. Ch. 424; 52 L. T. (N.S.) 541; 33 W. R. 745.

Section 17 (p. 36). No one has a right to use his own land in such a way as to be a nuisance to his neighbour; and, therefore, if a man puts filth or poisonous matter on his land, he must take care that it does not escape so as to poison water which his neighbour has a right to use, although his neighbour may have no property in such water at the time it is fouled. The plaintiff and defendant were adjoining landowners, and had each a deep well on his own land, the plaintiff's land being at a lower level than the defendant's. The defendant turned sewage from his house into his well, and thus polluted the water that percolated underground from the defendant's to the plaintiff's land; and consequently the water which came into the plaintiff's well from such percolating water, when he used his well by pumping, came adulterated with the sewage from the defendant's well. Held, reversing the decision of PEARSON, J., that the plaintiff had a right of action against the defendant for so polluting the source of supply, although until the plaintiff appropriated it, he had no property in the water percolating under his land, and although he appropriated such water by the artificial means of pumping. *Ballard* v. *Tomlinson*, 29 Ch. D. 115; 54 L. J. Ch. 454; 52 L. T. (N.S.) 942; 33 W. R. 533; 49 J. P. 692.

Section 21 (p. 38). Under the Metropolis Management Act, 1862, s. 61, a district board of works has no power, if it approve of the plans and sections of sewers proposed to be constructed by a private landowner, and branched into the main system, to withhold their sanction in writing to the construction of the same until such private landowner shall pay a sum of money to the board to cover the expenses of the board in supervising such works. *Reg.* v. *Greenwich District Board of Works*, 1 C. & E. 236.

Section 22 (p. 39). Under the Public Health Act, 1848, s. 48, the owner of land adjoining a district by deed agreed with the local board to do certain works and pay 10*l.* a year; and the board gave him leave to drain through their drain all sewage from the property and houses then belonging to the landowner, and from any houses thereafter to be erected on the property. Many more houses were afterwards erected, and the urban sanitary authority (which had succeeded the local board) were under a new Act of Parliament prevented from passing as before the sewage through the drain into the Thames. Held, that the deed was not *ultra vires*, and that the board could bind their successors as to the sewage of houses not then in existence. Held also, that though the board were trustees for the ratepayers, they had exercised their discretion, and the agreement did not appear at the time improvident; and its turning out badly for them did not affect it. Held also, that the law being altered so as to prevent the discharge of sewage into the Thames, was no ground for setting aside the deed. *Mayor, &c., of New Windsor* v. *Stovell*, 27 Ch. D. 665; 54 L. J. Ch. 113; 51 L. T. (N.S.) 626; 33 W. R. 223.

Section 23 (p. 39). On the corresponding section of the Metropolis Management Act, 1855 (18 & 19 Vict. c. 120), s. 73, it was held that a notice by an inspector, without the direction of the vestry, was insufficient, and that expenses incurred on the owner's default in carrying out the requirements of the notice could not be recovered. *St. Leonard, Shoreditch* (*Vestry of*), v. *Holmes*, 49 J. P. 724.

Section 39 (p. 52); section 149 (p. 146); section 264 (p. 303); section 308 (p. 359). A local board, assuming to act under the authority of section 39 of the Public Health Act, 1875, erected a public urinal partly upon a highway and partly upon a strip of land belonging to the plaintiff, and so near to other adjoining land of the plaintiff as to be a nuisance to her and her tenants, and to depreciate the value of her property. Held, that the plaintiff was entitled to a mandatory injunction to restrain the board from continuing the urinal upon her land, or so near thereto as to cause injury or annoyance to her or to her tenants. Held also, that it was not a matter in respect of which the plaintiff's remedy was by compensation under section 308 of the Act. In such a case notice of action under section 264 is not required. Abutting upon the highway the plaintiff had land, upon which an inn and some stabling were erected. These stood back from the highway, and in front of them was an open space (forming part of the same land), which had been left open to and on a level with the highway until the defendants, in exercise of their powers under section 149 of the Act, and for the convenience of the public, placed kerbstones and a raised footpath at the side of the highway, leaving openings so that carriages could still pass at convenient places to and from the plaintiff's land and premises. Held, that the plaintiff was not entitled to a mandatory injunction directing the defendants to remove the kerbstones, and that in the absence of any unreasonable conduct, the remedy for any injury caused by the kerbstones would be by compensation under section 308 of the Act. *Sellors* v. *Matlock Bath Local Board*, 14 Q. B. D. 928; 52 L. T. (N.S.) 782.

Section 51 (p. 60); section 52 (p. 63); 10 Vict. c. 17, s. 28 (p. 593). Plaintiffs claimed an injunction against defendants, who were the sanitary authority of the adjoining district, to restrain defendants from interfering with the pipes and works of the plaintiffs underlying the streets of defendants' district. Plaintiffs were a water company without statutory powers, and supplied defendants' district with water. As regarded some of the streets, plaintiffs relied on certain alleged irrevocable licenses granted to them for the purpose by the predecessors in title of the defendants, the surveyors of highways. As to other streets, plaintiffs had supplied water for more than twenty years, and relied on prescription. The defendants, who had statutory powers for supplying water to their district, counter-claimed against the plaintiffs, and claimed an injunction restraining the plaintiffs from breaking up the street in the defendants' district for the purpose of laying and repairing the waterpipes. The legal question was argued on admissions for the purpose of the decision. Held, that as the plaintiffs had no parliamentary powers for the purpose, they were creating a nuisance in breaking up the street; that there was no power in the defendants' predecessors in title (the surveyors of highways) to grant to the plaintiffs licenses, irrevocable or otherwise, to do that which was *ultra vires* of the grantors themselves; and that as to the plaintiffs' claim by prescription, they could not obtain by prescription that which they could not have taken by grant. *Mayor, &c., of Preston* v. *Fullwood Local Board*, Law Times, December 5th, 1885, vol. 80, p. 78; W. N. 1885, p. 213.

Section 51 (p. 62). The owner of land not abutting on a river, with the license of a riparian owner, took water from the river, and, after using it for cooling certain apparatus, returned it to the river unpolluted and undiminished. Held, affirming the decision of POLLOCK, B., that a lower riparian owner could not obtain an injunction against the landowner so taking the water, or against the riparian owner through whose land it was taken. *Kensit* v. *Great Eastern Railway Company*, 27 Ch. D. 122; 54 L. J. Ch. 19; 51 L. T. (N.S.) 862; 32 W. R. 885.

Section 55 (p. 65). A water company were bound to keep the water in their mains pure and wholesome for domestic purposes, and were also entitled to prescribe the material to be used for service-pipes by persons supplied with water. By their bye-laws the company prescribed that the material might be either iron or lead. Leaden service-pipes were, upon the application of the

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landlord of the plaintiff's house and of the plaintiff, laid down by the defendants from their mains to the house at the expense of the landlord and of the plaintiff. The service-pipes, when laid, belonged to the consumer of the water supplied through them. Water, which was pure and wholesome in the mains of the defendants, was supplied by them to the plaintiff, but in its passage from the mains through the service-pipes it was contaminated by the lead, and he, using the water, suffered from lead-poisoning. Held, affirming the judgment of MATHEW, J., that he had no cause of action. *Milnes* v. *The Mayor, &c., of Huddersfield*, 12 Q. B. D. 443; 50 L. T. (N.S.) 73; 48 J. P. 134; 53 L. J. Q. B. 12; 32 W. R. 265.

Section 62 (p. 71). A local authority caused a supply of water to be brought in main water-pipes along the street in which a house was situate, and gave notice to the owner of the house, under section 62, to obtain a proper supply, and do all such works as might be necessary for that purpose. That notice was not complied with, and the local authority did not exercise the power given them by that section of executing the works necessary to connect the house with the main. In an action by the water company for water rates:—Held, that the defendant was liable, and that it was not a condition precedent to such liability that the works necessary to bring the water into the house should have been executed. *Southend Waterworks Company* v. *Howard*, 13 Q. B. D. 215; 53 L. J. Q. B. 355; 32 W. R. 923; 48 J. P. 550.

Section 76 (p. 83); section 86 (p. 88). The respondent having fulfilled the necessary preliminaries under section 78, applied to a local authority to be registered under section 76 as the keeper of a common lodging-house, and the local authority passed a resolution that his house should be registered. The clerk did not carry out the resolution, and no formal registration of the respondent or of his house was made. Eight months afterwards the local authority resolved that the respondent should not be registered, and, two months later, prosecuted him for keeping a common lodging-house without being registered. Held, that the resolution of the local authority was equivalent to registration, and that the respondent was not liable to be convicted. *Coles* v. *Fibbens*, 52 L. T. (N.S.) 358; 49 J. P. 308.

Section 91, sub-section (7), (p. 92). Where a trade chimney sends forth black smoke so as to be a nuisance, it is no defence under the second proviso to section 91 that the furnace was well-constructed and the best coal used, as that proviso applies only to the first part of sub-section (7), and not to the second. *Weekes* v. *King*, 49 J. P. 709; 53 L. T. (N.S.) 51.

Section 94 (p. 97); section 96 (p. 102). A privy openly discharged night soil and offensive matter on the bank of a river, and the sanitary authority served the owner of the premises with a notice to abate the nuisance, and for that purpose "to remove the present pipes and pan, level the floor under the seat of the privy, and provide a galvanized double-handle pail under the seat, the cover of which said seat to be movable, so that the premises should no longer be a nuisance or injurious to health." The justices made an order in the terms of the notice. Held, that they had jurisdiction to make the order. *Ex parte Saunders*, 11 Q. B. D. 191, followed; *Ex parte Whitchurch*, 6 Q. B. D. 545, distinguished or dissented from; *Reg.* v. *Llewellyn*, 13 Q. B. D. 681; 33 W. R. 150; 49 J. P. 151.

The above decision was followed in *Reg.* v. *Kent JJ.*, 49 J. P. 404.

Section 96 (p. 102). Under this section justices ordered certain privies to be deodorized and filled in and converted into proper pan water-closets connected with the main drains. Held, following *Reg.* v. *Llewellyn*, *supra*, that the justices had power to make such an order. *Whittaker* v. *Derby Sanitary Authority*, 49 J. P. 740; W. N., 1885, p. 201; L. J. N. C., 1885, p. 171.

Section 96 (p. 102). An order was made under this section requiring a person "to abate a nuisance on his premises and to execute such works and do such things as might be necessary for that purpose, so that the same should no longer be a nuisance or injurious to health." Held, that the order was bad, for that it ought to have specified the particular work to be done. *Reg.* v. *Wheatley*, 49 J. P. 772.

Section 112 (p. 115). B. kept a fish-frying business within an urban sanitary district without a license. The justices found that the effluvium was experienced 300 yards off, and that it was an offensive business as carried on by B., but that it was not covered by 38 & 39 Vict. c. 55, s. 112. Held, that as the business was not offensive *per se*, it was not prohibited by the statute. *Braintree Local Board* v. *Boyton*, 48 J. P. 582; 52 L. T. (N.S.) 99.

Section 117 (p. 121). When unwholesome meat has been condemned by a justice, and proceedings are afterwards taken before a court of summary jurisdiction under section 117, against the owner of the meat, evidence may be given by him as to the state of the meat at the time of condemnation. *Waye* v. *Thompson*, 15 Q. B. D. 342; 33 W. R. 733; 49 J. P. 693; 54 L. J. M. C. 140; 53 L. T. (N.S.) 358.

Section 144 (p. 140); section 161 (p. 187). M. met with an accident while being driven home in his brougham after dining with the mayor of H. At a corner of the highway, where there was a sharp descent, there was a lamp-post standing sixteen inches within the footpath, but it was not lighted, and the brougham drove against the post and caused the injury. The lighting of the street was authorized to be done by the corporation, but there was no statutory obligation to light the road. Held, there being no duty to light, there was no cause of action against the corporation. *Mellor* v. *The Mayor, &c., of Heywood*, 48 J. P. 148.

Section 144 (p. 141). The plaintiffs, a gas company, laid down pipes under the surface of certain streets, as they were bound by statute to do, for the purpose of supplying gas to light the streets and houses in the streets. The streets were vested in the defendants, the vestry of the parish, by certain statutes, which gave them the authority of the surveyor of highways, and with the duty to repair, but without prescribing any particular mode of repair. The defendants used steam rollers for the repair of the streets, as being a mode of repair most advantageous to both the ratepayers and the public, but the rollers they used were so heavy as to frequently injure the plaintiff's pipes, though the pipes were sufficiently below the surface as not to have been injured by the ordinary mode of repair if such rollers had not been used. Held, that the plaintiffs were entitled not only to recover damages for the injury which had been done, but also to have an injunction to restrain the defendants from using steam rollers in such a way as to injure the pipes of the plaintiffs. *Gas Light and Coke Company* v. *Vestry of St. Mary Abbott, Kensington*, 15 Q. B. D. 1; 54 L. J. Q. B. 414; 33 W. R. 892; 53 L. T. (N.S.) 457; 49 J. P. 469.

Section 144 (p. 137); sections 216, 217 (p. 250). The respondents were the local board for the district of G. Part of their district, called the outer district, was not rated for works of paving, water supply, and sewerage. The respondents, under sections 216, 217, made a highway rate of 3*s.* 4*d.* in the pound upon the inhabitants of the outer district, whose consent to the rate had not been obtained. Held, that although the local board were surveyors of highways within the outer district, pursuant to section 144, yet the limit imposed upon rates made by surveyors of highways under 5 & 6 Will. 4, c. 50, s. 29 (10*d.* in the pound for one rate, and 2*s.* 6*d.* in the pound for one year), unless the consent of the parishioners had been obtained, did not apply to the highway rates made by the local board under sections 216, 217, and that the rate of 3*s.* 4*d.* in the pound was valid. *Dyson* v. *Greetland Local Board*, 13 Q. B. D. 946; 53 L. J. M. C. 106; 48 L. T. (N.S.) 636; 48 J. P. 596.

Section 144 (p. 142); section 189 (p. 219); section 249 (p. 288). The charges of a solicitor employed by an urban authority to conduct proceedings at the instance of an individual for the stopping up or diverting of a highway under 5 & 6 Will. 4, c. 50, ss. 84, 85, are not expenses within section 84 of that Act so as to be recoverable in the manner pointed out by section 101. *Semble*, that all the steps required by section 85 to be taken for the purpose of obtaining the order of sessions are ministerial acts, which ought to be done by the surveyor appointed under section 189 of the Public Health Act, 1875, and that section 144 does not authorize the appointment of a surveyor to do his

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work. *Quære*, per HAWKINS, J., whether the person diverting might not have been liable, under a contract, to pay the solicitor's charges; and per SMITH, J. As to the taxation of costs by the clerk of the peace under section 249, that applies only when the local authority are asking for a taxation for the purpose of audit. *United Land Company* v. *Tottenham Local Board*, 13 Q. B. D. 640; 53 L. J. M. C. 136; 51 L. T. (N.S.) 364; 32 W. R. 798; 48 J. P. 726.

Section 148 (p. 145); 41 & 42 Vict. c. 78, s. 13 (p. 918). By a local Act (18 & 19 Vict. c. 100) passed in 1855, and incorporating the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34), the maintenance of all highways within a district, including a turnpike road, became vested in the commissioners. The trustees of the turnpike road thereupon ceased to repair it within the limits of the district. The turnpike trust expired in 1877. The commissioners were the highway authority for the district, which was a highway area within the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77), s. 13. Held, that notwithstanding the special legislation in 1885, providing for the maintenance of part of the road by the commissioners, it only "ceased to be a turnpike road" within the meaning of 41 & 42 Vict. c. 77, s. 13, on the expiration of the turnpike trust between 1870 and the date of the passing of that Act, and therefore should be "deemed to be a main road," and one-half of the expenses of the maintenance of the part within the highway area should be paid to the highway authority by the county authority under section 13. Decision of the Queen's Bench Division (13 Q. B. D. 623) affirmed. *Newton-in-Makerfield Improvement Commissioners* v. *Justices of Lancashire*, 15 Q. B. D. 25; 54 L. J. M. C. 1; 52 L. T. (N.S.) 337; 33 W. R. 488; 49 J. P. 149.

Section 149 (p. 149). The similar enactment in force in the metropolis (18 & 19 Vict. c. 120, s. 96), vesting the streets in the vestries and boards of works, does not confer on these bodies such a property in the streets as to entitle them to maintain an action for an injunction against the erection of a telephone wire across a street, the telephone wire being erected at a great height, and causing no appreciable danger to the public or to the traffic in the street. *Wandsworth Board of Works* v. *United Telephone Company, Limited*, 13 Q. B. D. 904; 53 L. J. Q. B. 449; 51 L. T. (N.S.) 148; 32 W. R. 776; 48 J. P. 676.

Section 149 (p. 151). A duty is cast upon those who, in the exercise of statutory powers, divert a public footpath, to protect, by fencing or otherwise, reasonably careful persons using the footpath from injury through going astray at the point of diversion. *Hurst* v. *Taylor*, 14 Q. B. D. 918; 54 L. J. Q. B. 310; 33 W. R. 582; 49 J. P. 359.

Section 149 (p. 151). A local Act provided as follows:—If the corporation are of opinion that danger to the public is likely to ensue by reason of lands abutting on streets not being fenced, the owner of any such land shall, when required by the corporation, and to their satisfaction, sufficiently fence off the land from the street, and shall afterwards keep such fence in good repair to the satisfaction of the corporation, and if he fails so to fence or repair as aforesaid within fourteen days after notice for that purpose given to him by the corporation, the corporation may fence or repair, as the case may be, and charge him with the expenses of so doing, and recover the same as expenses under the Public Health Act, 1875. Held, that the Act did not apply to fences by the side of a road which had been a turnpike road, but only to new streets where there were no fences. *Mayor, &c., of Rotherham* v. *Fullerton*, 50 L. T. (N.S.) 364.

Section 150 (p. 154). In 1857 a local Act was passed which incorporated section 53 of the Towns Improvement Clauses Act, 1847 (10 & 11 Vict. c. 34). In 1874 the appellants, in their capacity as the corporation of P., bought some land of the respondents abutting upon a county high road within the district to which the local Act applied, and, in pursuance of an agreement then made with the respondents, at their own expense widened and improved the road, and laid out a footpath along the side, and gravelled, channelled, and kerbed

the footpath. In 1879 the appellants, in their capacity as the urban authority, paved and flagged the footpath, and sought to recover the expense of so doing from the respondents as adjoining owners under the powers of section 53. The jury found that before the paving and flagging in 1879 the road was not a street in the popular sense of the term, and that the footpath had been "made good" within section 53. Held by the House of Lords, affirming the decision of the Court of Appeal (13 Q. B. D. 184), that the respondents were not liable, upon the ground that the footpath had been "theretofore made good" within the meaning of section 53, but without deciding whether the road was a street within the meaning of the section. The word "theretofore" in section 53 refers to the period before the work is done by the commissioners, not to the period before the passing of the special Act. *Mayor, &c., of Portsmouth* v. *Smith*, 10 App. Cas. 364; 54 L. J. Q. B. 473; 49 J. P. 676; 53 L. T. (N.S.) 394.

Section 150 (p. 157). A., by deed, conveyed for value to trustees in fee a piece of land as part of the site of a road intended to be made and maintained by the trustees under the provisions of a contemporaneous trust deed (being a deed of settlement for the benefit of a joint-stock company established to raise the necessary capital for making the road), and in the conveyance the trustees covenanted with A., his heirs and assigns, that they, the trustees, their heirs and assigns, would make the road and at all times keep it in repair, and allow the use of it by the public subject to tolls. The piece of land as conveyed was bounded on both sides by other lands belonging to A. The trustees duly made the road, which afforded the necessary access to A.'s adjoining lands. A. afterwards sold his adjoining lands to the plaintiff, and the trustees sold the roads to the defendants, both parties taking with notice of the covenant to repair. Held (affirming the decision of the Vice-Chancellor of the Duchy of Lancaster), that the plaintiff could not enforce the covenant against the defendants. The promoters of an intended road by deed declared that the road should not only be enjoyed by them for their individual purposes, but "should be open to the use of the public at large for all manner of purposes in all respects as a common turnpike road," but subject to the payment of tolls by the persons using it. Held, that this was not a dedication of the road to the public, and that the road was not a highway repairable by the inhabitants at large under section 150 of the Public Health Act, 1875. *Semble*, an individual cannot, without legislative authority, dedicate a road to the public if he reserves the right to charge tolls for the user; and the mere fact that a number of persons form themselves into a company for making and maintaining a road, and erect gates and bars, and charge tolls, does not make the road a "turnpike road" in the sense of a turnpike road made such by Act of Parliament, and so dedicated to the public. *Austerberry* v. *Corporation of Oldham*, 29 Ch. D. 750; 33 W. R. 807; 49 J. P. 532; 53 L. T. (N.S.) 543.

Section 150 (p. 160). The appellant owned premises separated from a street by a wall five feet high, belonging, together with the land on which it stood, to another person. The appellant had no direct access from his premises to the street, but in order to reach it had to pass for a short distance down a public footpath, or over other intervening land. Held, that the appellant was not the owner of premises "fronting, adjoining, or abutting" on the street within the meaning of section 150 of the Public Health Act, 1875, and therefore was not liable to contribute to the expenses of sewering and paving the street under that section. *Lightbound* v. *Bebington Local Board*, 14 Q. B. D. 849; 54 L. J. M. C. 130; 33 W. R. 705; 49 J. P. 678. Affirmed in C. A.; W. N. 1884, p. 224.

Section 150 (p. 161). The owner of the soil of a road dedicated to the public is not the owner of lands abutting on the street into which such road opens. *Vestry of St. John, Hampstead* v. *Cotton*, 49 J. P. 567.

Section 150 (p. 163); section 174 (p. 202); section 257 (p. 296). In an action by a local authority to recover from the defendant his proportion of the cost of paving, &c., a street, under section 150, it appeared that part of the work, to an amount exceeding 50*l.*, had been done by contractors employed by

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the local authority, but that no written contract under the common seal of the authority had been made with them, as provided by section 174. Held, by HAWKINS and SMITH, JJ., that the defendant was, nevertheless, liable; by SMITH, J., that the objection, if valid, would have been an objection to the apportionment, which could only be raised in the time and manner provided by section 257. *Bournemouth Commissioners* v. *Watts*, 14 Q. B. D. 87; 54 L. J. Q. B. 93; 51 L. T. (N.S.) 823; 33 W. R. 280; 49 J. P. 102.

Section 152 (p. 170). A rent-charge issuing from lands adjoining certain roads, and granted at a time when the roads were private occupation roads, in respect of the use of such roads and of a sewer laid down in one of them, is not determined by the roads becoming highways repairable by the inhabitants at large, and the sewer becoming vested in and discontinued by the local authority; and it matters not that the grantor had covenanted in the grant to keep the roads and sewer in repair. *Merrett* v. *Bridges*, 47 J. P. 775.

Section 155 (p. 172). Where an umpire has, under this section, made an award and directed a sanitary authority to pay the costs of the reference and the award, and the submission has been made a rule of court: Held by PEARSON, J., that the common law procedure should apply to the taxation of costs under an award in the Chancery Division, and that a special order to tax the costs was not necessary. *In re An Arbitration between Clark and the Corporation of Bath*, W. N. 1884, p. 127.

Section 155 (p. 172); section 158 (p. 183). The defendants being about to pull down a school and erect a new one, submitted plans to the local board. The local board objected to the plans, giving as a reason that they violated a bye-law, which obliged a person laying out a new street to have it of a certain width. This bye-law was not applicable, as South Lane, on which the school fronted, was not a new street. The defendants disregarded the objection, commenced their work on the 5th of January, 1885, laid the foundation of the main wall towards South Lane on the 12th, and proceeded rapidly with the erection of it. On the 22nd of January the local board prescribed a building line which did not interfere with the main wall, but would prevent the erection of certain annexes not then commenced, lying between South Lane and the main wall, which annexes were shown on the plans laid before the board. The defendants had ground enough to allow of the annexes being erected elsewhere. The defendants proceeded with the annexes, and the board brought their action to restrain them from building beyond the line, and to compel them to pull down what they had built beyond it. Held, that where a building is taken down to be re-built, a building line may be prescribed under section 155 for any portion of it which has not been commenced, although other portions have been commenced, unless what has been commenced necessarily involves, as a matter of construction, a projection beyond the line afterwards prescribed, and that here no such necessity existed, as the annexes could be erected elsewhere. That the commencement of the main building, therefore, did not preclude the board from laying down to a line which would prevent the erection of the annexes which had not then been commenced. Held also, that as the notice given by the board, though ineffectual for the purpose of empowering them to pull down the erection under section 158, gave the defendants to understand that the board objected, on the ground that building according to the plan would make the street too narrow, the board had not done anything to induce the defendants to believe that they would not prescribe a building line, and that there was no equity to prevent the board from exercising their powers under section 155, on the ground that they had misled the defendants. *Newhaven Local Board* v. *Newhaven School Board*, 30 Ch. D. 350.

Section 156 (p. 174); 10 & 11 Vict. c. 34, s. 68 (p. 606). The plaintiff purchased a large piece of land abutting on a highway called the K. Road, on which was standing a public-house and several other houses fronting the highway. He pulled down the house and made a new street through the piece of land running into the K. Road, at right angles with it, which he called D. Gardens, and sold portions of the land on each side of the new street to a

builder. The builder erected a row of houses in D. Gardens, and the superintending architect of the Metropolitan Board certified the general line of buildings in D. Gardens. The plaintiff built a row of houses fronting the K. Road, one of which was at the corner of the K. Road and D. Gardens. The side of the corner house abutting on D. Gardens projected beyond the general line of buildings in D. Gardens. The house was not built on the site of any one of the old houses in the K. Road, but on the site of part of the garden of the public-house. A magistrate's order having been obtained by the vestry for the removal of the projecting part of the corner house, the plaintiff brought an action to restrain the vestry from interfering with his house. Held, reversing the decision of BACON, V.C., (1.) that the general line of buildings in D. Gardens extended to the K. Road; (2.) that the projecting part of the corner house was a new building, and came within section 75 of the Metropolis Management Amendment Act, 1862, and not within section 74, which applies to existing buildings; and (3.) that although the corner house formed a part of a row in K. Road, it was also in D. Gardens, and the owner was bound to keep it within the general line of buildings of D. Gardens. The action was therefore dismissed. *Lord Auckland* v *Westminster District Board of Works*, L. R. 7 Ch. 597, distinguished. An order was made by a magistrate under section 75 of the Metropolis Management Amendment Act, 1862, for pulling down the projecting part of a building within eight weeks. The order was made in the presence of the owner, who was summoned, but was not reduced into writing and served on him till the day on which the eight weeks expired. Held, that the order was binding, the Act being silent as to service of the order on the owner, although it requires to be in writing. *Barlow* v. *The Vestry of Kensington*, 27 Ch. D. 362; 52 L. T. (N.S.) 155.

Section 156 (p. 175). Where a temporary structure had been erected within the metropolitan district without the license of the Metropolitan Board of Works, but no complaint of such erection was made until after the expiration of six months from its completion: held, that the offence was a continuous one as long as the structure remained existent, and that proceedings for the recovery of penalties might be taken within six months of the time within which it continued to exist. *Metropolitan Board of Works* v. *Anthony & Co.*, 54 L. J. M. C. 39; 33 W. R. 166; 49 J. P. 229.

Section 157 (p. 176). Held, that this section does not impower the making of a bye-law that "no person shall commence the erection of a building in a new street, unless and until the kerb of each footpath therein shall have been put in at such level as may be fixed or approved by the urban sanitary authority." *Rudland* v. *The Mayor, &c., of Sunderland*, 52 L. T. (N.S.) 617; 49 J. P. 359.

Section 157 (p. 176). L. was summoned by the Metropolitan Board of Works for laying out a new street of less than the required width, contrary to 25 & 26 Vict. c. 102, s. 98. L. gave notice of his intended building on May, 1883, to the district surveyor, and paid his fees, but no notice was given by the surveyor to the board until November, 1883. The complaint was made in March, 1884. Held, that the notice to the district surveyor was the date of the discovery by the board, and that the complaint was, therefore, too late, being more than six months after the discovery, and so contrary to the 25 & 26 Vict. c. 102, s. 107. *Metropolitan Board of Works* v. *Lathey*, 49 J. P. 245.

Section 157 (p. 178). In proceedings taken under the Metropolis Management Acts in respect of the paving of an alleged "new street," the magistrate held that a lane was not a street. It was 340 feet long; there were no buildings on either side of it, except four houses at one part of it, and the lane was bounded on the north and south by back gardens, and the backs and sides of houses. It was held (discharging a rule for a *mandamus* to compel the magistrate to state a case) that the question whether the lane was a street or not was a question of fact, and not of law, and that the magistrate could not be compelled to state a case. *Reg.* v. *Shiel*, 50 L. T. (N.S.) 590; 49 J. P. 68.

(Note.—This case may usefully be compared with *Williams* v *Powning*, p. 178.)

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Section 157 (p. 182). It is reasonable for an urban authority to make a bye-law and regulations enabling it to retain the plans of intended buildings deposited under this section, although such plans be disapproved of and rejected. *Gooding* v. *Ealing Local Board*, 1 C. & E. 359.

Section 157 (p. 182). One J. had begun to build expensive stables in B. without first giving notice to the corporation. The building was begun in December, 1883. An information was laid against J. on the 27th May, 1884, but no summons was issued until the 3rd September, when objection was taken that the summons was out of time under 11 & 12 Vict. c. 43, s. 11. The justices overruled the objection, and convicted J., but refused to state a case. Held, that the justices were bound to state a case, there being nothing frivolous in the point raised. *Reg.* v. *Priestley*, 49 J. P. 148.

Section 157 (p. 180); s. 159 (p. 184); s. 326 (p. 371). Bye-laws were made for the borough of S. under section 34 of the Local Government Act, 1858, which Act was repealed by the Public Health Act, 1875, but by section 326 of the latter Act, all bye-laws duly made under any of the Sanitary Acts by that Act repealed, and not inconsistent with any of the provisions of that Act, would be deemed to be bye-laws under that Act. A bye-law providing that every person intending to erect a new building should give one month's notice of such intention, and send in a plan of the works to the surveyor of the urban sanitary authority. Another bye-law provided that if the owner or person intending to construct any new building failed to give the required notices, or constructed, or caused to be constructed, any buildings contrary to any of the bye-laws, he should be liable for each offence to a penalty not exceeding 5*l.*, and should pay a further sum not exceeding 40*s.* for each day such buildings should continue contrary to the said provision. The appellant contended that he was not bound to give notice or send a plan of alterations in his house, but he sent a plan as a matter of courtesy. The plan was disapproved, and notice of disapproval was sent to the appellant, but he went on with the buildings. He was summoned for neglecting to give notice and plans as required by the bye-laws. The magistrate found that the structure was a dwelling-house, which previously it was not, and that the old building was partly pulled down to the ground floor, so that the buildings erected on the site formed a new building intended for occupation, though not adapted for personal occupation previously, and that they were "a new building" within the meaning of section 159. Held, that the question whether the alterations constituted a new building was a question of fact for the magistrate, and that a penalty of 5*l.* was payable in addition to the penalty of 40*s.* a day, though the information laid against the appellant was only for not having given the notice and plans. *James* v. *Wyvill*, 51 L. T. (N.S.) 237; 48 J. P. 725.

Section 159 (p. 185). R. was charged under the W. Improvement Act with unlawfully erecting a new building without notice to the local board. The building was made of wood, thirty feet long and thirteen feet wide, and was brought along the street on wheels, and put at the corner of a new street. It had spouts and a down corner, had a supply of gas, and was used as a butcher's shop. Held, the justices were right in treating this as a new building, and subject to the ordinary requirements as to new buildings. *Richardson* v. *Brown*, 49 J. P. 661.

Section 166 (p. 193). A charter of Edward III. by the king and parliament, purported to give the citizens of London and their successors exclusive right of market in a certain area. The charter was not included in the statute roll, but was in the charter roll. A charter of Charles II. granted to G. and his heirs an exclusive right of market for fruit and vegetables within part of the above area, and this market has been enjoyed ever since. The Great Eastern Railway Company set up a rival fruit market within a quarter of a mile of the latter market, on the ground that G.'s market was overcrowded. Held, (1) that the charter of Edward III. had the force of a private Act of Parliament, and amounted to a grant of market to the corporation; (2) that the corporation was entitled to waive any of its rights of market; (3) that G.'s market had by such implied waiver become a legal market; and (4) that G.'s

market-right had been disturbed by the company's market, and that overcrowding was no defence for the disturbance created by setting up a rival market (H. L.) *Great Eastern Railway Company* v. *Goldsmid*, 9 App. Cas. 927; 54 L. J. 162; 52 L. T. (N.S.) 270; 49 J. P. 260,

Section 166 (p. 193). By letters patent in 34 Car. 2, the king granted to the predecessor in title of those under whom the defendant claimed as lessee the right to hold two markets—one on Thursday, and the other on Saturday—in every week "in or next to Spital Square." The market place and four inner streets connected therewith were made by the grantee on the square piece of land which had formerly been Spital Square, and which land he had acquired when the charter was granted to him, but he never acquired the adjoining land which surrounded such square piece, and on which, subsequently to the charter, were made certain outer streets into which the inner streets ran. By letters patent in 4 Jac. 2, made void by 2 Will. & My. sess. 1, c. 8, a third market was given, viz., on Monday in every week, and a market on Wednesday, substituted for that on Thursday. In proceedings taken at the instance of the local authority to restrain the defendant from licensing the sale of goods in either the outer or the inner streets adjoining the market, the local authority relied on certain Paving Acts of Geo. 3, which empowered the local authority to remove the obstruction caused by selling articles in those specific streets, and the defendant proved a usage from the time of living memory to sell vegetables and fruits in any of those streets, and to pay toll to the market owner for so doing, when by reason of the market being so crowded it was impossible to get nearer to the inside market, and he also proved such usage to hold a market on other days of the week besides on Thursday and Saturday. Held, that the market was a market without metes and bounds, and might extend, therefore, from time to time as the crowded state of the market might require over any of the surrounding streets, all of which were to be presumed to have been dedicated to the public, subject to the exercise of the market franchise, notwithstanding the Paving Acts, as such Acts were not to be construed as interfering with the market rights. Held also, that the right to hold the market was confined to the two days mentioned in the charter of Car. 2, and that under the particular circumstances of the case a lost grant for the other days of the week was not to be inferred. *Attorney-General* v. *Horner*, 14 Q. B. D. 245; 54 L. J. Q. B. 227; 51 L. T. (N.S.) 93; 33 W. R. 93; 49 J. P. 326. This decision has been affirmed by the House of Lords.

Section 174 (p. 201). A highway board passed a resolution directing their clerk to take the necessary steps to oppose, on behalf of the board, a bill in parliament which contained provisions contrary to the Railways Clauses Acts, and which would have prejudicially affected certain of the highways within their district. In pursuance of such resolution the clerk instructed the plaintiffs' firm of solicitors to oppose the bill. In an action by the plaintiffs to recover their costs of such opposition from the board:—Held, that the purpose for which they had been retained was not incidental to the purpose for which the highway board was incorporated, and that as they had not been retained under the seal of the board they had no right of action against the board. *Phelps* v. *Upton Snodsbury Highway Board*, 49 J. P. 408; 1 C. & E. 524.

Section 174 (p. 202); section 193 (p. 224). By section 174 of the Public Health Act, 1875, every contract made by an urban authority whereof the value or amount exceeds 50*l.* shall be in writing, and sealed with the common seal of such authority. The defendants, an urban authority, by contract not under seal, employed the plaintiffs as engineers to perform certain work. The plaintiffs performed part of the work exceeding in value 50*l.*, and then required the defendants to affix their seal to the contract. This the defendants did, believing that it was for the benefit of the ratepayers of the district that the contract should be completed. Held, that as part of the work was unperformed when the seal was affixed, and there was consideration for affixing it in the plaintiffs' promise to complete the work, it was competent for the defendants to constitute the contract a good contract under seal, within section 174, in respect of the work already done, and, therefore, that the plaintiffs

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were entitled to maintain their action for the value of that work. By section 193, officers or servants employed under this Act by the local authority shall not in anywise be concerned or interested in any bargain or contract made with such authority for any of the purposes of this Act; and if any such officer or servant is so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of 50*l.*, to be recovered by any person in the prescribed manner. Held, that this section intended to limit the penal consequences of a breach of its provisions to the specified penalties; and, therefore, that the enactment did not render a contract made by an officer with the local authority void, so as to disentitle him to sue upon it. *Melliss* v. *Shirley Local Board*, 14 Q. B. D. 911; 52 L. T. (N.S.) 544; 54 L. J. Q. B. 408. On appeal the Court of Appeal held that the intention and effect of section 193 was to prohibit such a contract altogether, and to make it an illegal contract as between the parties to it, and that, consequently, the action could not be maintained. The court did not, however, express any opinion on the question raised before CAVE, J., as to the effect of section 174. W. N. 1885, p. 224.

Section 179 (p. 210); section 180 (p. 213); section 308 (p. 363). When a claim for compensation is made against a local authority for damage caused by the exercise of the powers conferred upon them by the Public Health Act, 1875, the arbitrator has jurisdiction to hold the arbitration and make his award as to the part of damage, and the amount of compensation under sections 179, 180, and 308, although the local authority *bonâ fide* dispute their liability to make compensation at all under the Act. Their proper course is to raise the question of liability in their defence to an action upon the award (H. L.) *Brierly Hill Local Board* v. *Pearsall*, 9 App. Cas. 595; 54 L. J. Q. B. 25; 51 L. T. (N.S.) 577; 33 W. R. 56; 49 J. P. 84.

Section 180 (p. 212). An award of an umpire under this section, awarding compensation for damage to land under section 308, cannot be enforced by motion, though made a rule of court under this section. *Walker* v. *Beckenham Local Board*, 50 L. T. (N.S.) 207; 48 J. P. 264.

Section 193 (p. 224). An officer of a local board, who is a shareholder in a company having a contract with the board, is, so long as the contract exists, "interested in a bargain or contract" with the board within the meaning of the Public Health Act, 1875, s. 193, and if the contract is capable of producing any profit to the shareholders of the company, he is liable to the penalty imposed by that enactment. *Todd* v. *Robinson*, 14 Q. B. D. 739; 54 L. J. Q. B. 47; 52 L. T. (N.S.) 120; 49 J. P. 278. But see now the Public Health (Members and Officers) Act, 1885, *ante*, p. 8.

Section 193 (p. 224). A demise of rooms is a "bargain or contract" within the meaning of section 193 of the Public Health Act, 1875, and if an officer, employed by a local board constituted under that statute lets rooms to the board at a rent payable by it to him, although the rooms are used by it in the transaction of its business, he becomes liable to the penalty imposed by that section; for the rent payable by the local board cannot be considered as an "allowance" to the officer in addition to his salary within the meaning of sections 189, 193, it being unconnected with the performance of any services in the course of his employment under the board. *Burgess* v. *Clark*, 14 Q. B. D. 735. But see now the provisions of the Public Health (Members and Officers) Act, 1885, *ante*, p. 8.

Section 210 (p. 237); section 271 (p. 326). At the time when the parish of B. was by a provisional order separated from the local government district of M., the special district rates of that district were mortgaged for the unexpired period of twenty-three years to secure the repayment of a debt which had previously been incurred by the local board of the district of M. The statute 24 & 25 Vict. c. 39, which confirmed the provisional order, apportioned the amount which the parish of B. should contribute towards the payment of such debt, and provided that the overseers of that parish should raise the annual instalments required to pay off the sum the parish of B. was to contribute in the name, and as part of the rates levied within such parish for the relief of

the poor. In July, 1883, the local board of M. paid off the last instalment of principal and interest due under the mortgage, and on the 25th of March, 1884, demanded from the overseers of the parish of B. payment of the amount due from the parish since the 13th of January, 1879, up to which date it had duly contributed in accordance with 24 & 25 Vict. c. 39. The demand not having been complied with, application was now made for a *mandamus* to compel the overseers to levy a rate in order to pay the amount in arrear. Held, that the obligation imposed by the statute on the parish of B. was that they should pay their proportion of the debt annually, and that the effect of granting the *mandamus* would be to enforce the levy of retrospective rates; and the court, therefore, discharged the rule. *Reg.* v. *Overseers of Bedlington*, 48 J. P. 486.

Section 211 (p. 240). Two-and-a-half acres of land, of which two acres were covered with glass-houses used for the purpose of forcing fruit and flowers for early markets. Held by the Middlesex Sessions to be rateable at one-fourth only, as being a nursery-ground or market-garden. *Kay* v. *Finchley Local Board*, 49 J. P. 488.

Section 211 (p. 240). The Railway Servants' Orphanage occupied premises at Derby for the purposes of the charity, which by its rules was for the benefit of railway servants all over the country, and was in the nature of a provident benefit society, and though supported to a great extent by public contributions, was also supported out of funds subscribed by members of the society subscribing to the servants' department of such society, or to the orphanage only. By a local Act, 6 Geo. 3, c. 132, s. 103, no rates were to be laid on premises occupied exclusively for the purposes of public charity, and the case raised the question whether this was a public charity. Held, that it was a public charity and exempt. *Hall* v. *Derby Sanitary Authority*, 49 J. P. 756; W. N. 1885, p. 198; L. J. N. C. 1885, p. 172.

Section 211 (p. 246). A company was being wound-up under supervision, the liquidation commencing in 1882. The liquidator did not keep the concern in full work, but remained in occupation of the business premises for the purpose of carrying out some pending contracts, finishing a quantity of unfinished articles, and storing and keeping in order a quantity of completed articles, with a view to selling them. In March, 1883, a rating authority made a rate for 1883 on all the property within the district. The liquidator allowed the time for appealing against the assessment to go by. The rating authority applied to the court for payment of the rate in full. Held, that as the liquidator had from the commencement of the winding-up occupied the property for the purposes of the company, and with a view to acquiring gain or avoiding loss to the company, the rate ought to be paid in full. Whether, in order to entitle the rating authority to be paid in full, it is necessary for the liquidator to have any more beneficial occupation of the property than is required under the ordinary law as to rating, *quære*. The test in *In re West Hartlepool Iron Company*, 34 L. T. (N.S.) 568, doubted. Where the liquidator, being in possession, does not appeal against the assessment, the court will not refuse to order payment of the rate in full on the ground of its being too high, except, perhaps, in extreme cases. *In re National Arms and Ammunition Company*, 28 Ch. D. 474.

Section 211 (p. 246). An hotel company was wound-up under an order of the court, and the liquidator was directed to sell the hotel, but with liberty to carry on the business till the sale, so as to sell it as a going concern. The liquidator accordingly carried on the business in the hotel, but made no profit by it. Shortly after the commencement of the winding-up a poor rate was made, and the overseers claimed payment of the rate from the liquidator in respect of his occupation of the hotel. Held (affirming the decree of the Vice-Chancellor of the County Palatine of Lancaster), that the rate must be paid in full. *In re West Hartlepool Iron Company*, 34 L. T. (N.S.) 568, and *In re Watson, Kipling, and Company*, 23 Ch. D. 500, distinguished. *In re International Marine Hydropathic Company*, 28 Ch. D. 470; 33 W. R. 587.

Section 218 (p. 256). A private bill before Parliament provided for the

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punctual payment of interest on the share capital of the undertaking, for which authority was sought by declaring that the overseers of the parish in which the undertaking was situated should, when required to do so, raise as part of the poor rate money for the payment of such interest. The overseers, with the authority of the vestry, successfully opposed the bill; and in so doing incurred certain expenses, which were not immoderate, and were allowed by the auditor. Held (reversing the decision of the Queen's Bench Division), that the overseers were entitled to charge the expenses so incurred upon the poor rate. *Reg.* v. *White*, 14 Q. B. D. 358; 52 L. T. (N.S.) 116; 49 J. P. 294.

Section 226 (p. 262). A lessee covenanted to pay the tithe or rentcharge in lieu of tithes, land tax (if any), sewers rates, main drainage rates, and all other taxes, rates, assessments, and impositions, and outgoings whatsoever, then or thereafter to be charged or imposed on or in respect of the demised premises, or any part thereof. Held, that the lessee was not liable to pay the amount charged by the urban authority for sewering, levelling, and paving the road on which the demised premises abutted under section 150 of the Public Health Act, 1875. *Hill* v. *Edwards*, 1 C. & E. 618; W. N. 1885, p. 32; L. J. N. C. 1885, p. 32.

Section 226 (p. 262). By an agreement of lease the tenant agreed to pay "all rates, taxes, and assessments payable in respect of the premises during the term." Held, that a sum assessed upon the owners under the Metropolis Management Acts (18 & 19 Vict. c. 120, s. 105; 25 & 26 Vict. c. 102, s. 96), as their proportion of the expense of paving the street upon which the premises abutted, was not a rate, tax or assessment within the meaning of the covenant, but a charge imposed upon the owner for the permanent improvement of his property. *Wilkinson* v. *Collyer*, 13 Q. B. D. 1; 32 W. R. 614; 48 J. P. 791.

Section 226 (p. 262). A testator directed the rents and profits of a leasehold house, "after payment of all ordinary outgoings for ground-rent, repairs, taxes, expenses of insurance, or otherwise," to be paid to his widow for life, and after her death to certain other persons. The trustees of the will, upon notice from the vestry under the Metropolis Management Acts, executed certain drainage works. Held, that the cost of the works was to be paid by the tenant for life, and did not constitute a charge on the *corpus* of the estate. *Re Crawley; Acton* v. *Crawley*, 49 J. P. 508.

Section 226 (p. 262). In a lease of a shop and basement, and of three rooms on the third floor of the same house, the lessor covenanted to pay "all rates and taxes chargeable in respect of the demised premises." Water was separately supplied by a water company to the shop and basement, and paid for by the tenant. In an action to recover from the lessor the amount so paid: held, that such charge was a "rate" within the meaning of the covenant. *Direct Spanish Telegraph Company* v. *Shepherd*, 13 Q. B. D. 202; 53 L. J. Q. B. 420; 51 L. T. (N.S.) 124; 48 J. P. 550.

Section 252 (p. 291). By 9 Geo. 4, c. 77, s. 18, no person may be convicted of an offence against 3 Geo. 4, c. 126, s. 118, for encroaching on a turnpike road after the expiration of six months from the time when such offence shall have been committed. The period of six months begins to run from the time that a substantial encroachment on the highway has been made, and not from the final completion of the encroaching building or other encroachment. *Hyde* v. *Entwistle*, 52 L. T. (N.S.) 760; 49 J. P. 517.

Section 256 (p. 295). A special case may be stated by justices under the 33rd section of the Summary Jurisdiction Act, 1879, upon an application to enforce payment of a general district rate under the 256th section of the Public Health Act, 1875. On an application under the last-mentioned section to enforce a general district rate good on the face of it, the justices may not refuse to make an order for payment of the rate on the ground that there is a concurrent rate made for the same purpose. *Sandgate Local Board* v. *Pledge*, 14 Q. B. D. 730; 52 L. T. (N.S.) 546; 49 J. P. 342; 33 W. R. 565.

Section 256 (p. 295). On a summons for a rate under this section, the defendant contended that he was expressly exempt under a section of a local Act; and the justices, thinking he was exempt, refused to make the order. A rule by way of *mandamus* having been obtained, the defendant contended that the justices were acting judicially, and not ministerially, and were right in refusing to make the order. Held, that the justices were acting ministerially, and ought not to have inquired into the validity of the rate; and that *Sandgate Local Board* v. *Pledge* (*supra*) determined the point (though MANISTY, J., doubted the correctness of that decision, while SMITH, J., adhered to it). *Reg.* v. *Hannam*, 49 J. P. 740.

Section 256 (p. 295). A waterworks company were summoned for non-payment of an urban rate, and five weeks afterwards they applied to the assessment committee to reduce the poor law valuation on which the rate was made. The committee reduced the valuation to some extent, and the company did not appeal in time to quarter sessions against the rate, though an appeal against the poor rate was pending. On a summons under section 256 to enforce payment of the rate, the magistrate made an order to pay it, as it had never been appealed against. Held, that the magistrate was wrong, and ought to have held it sufficient cause for non-payment that the assessment committee had reduced the valuation before the summons was taken out. *Sheffield Waterworks Company* v. *Mayor, &c., of Sheffield*, 50 J. P. 6; 34 W. R. 153.

Section 257 (p. 298). An action was brought to enforce a charge on premises under this section for 6*l.* 19*s.* 10*d.* No summary proceedings had been taken to recover the money, and for that reason, as well as having regard to the small sum claimed, KAY, J., refused to entertain the action, and dismissed it, with costs against the local board. *Westbury-on-Severn Rural Sanitary Authority* v. *Meredith*, L. J. N. C. 1885, p. 30; affirmed in the Court of Appeal, W. N. 1885, p. 163; 52 L. T. (N.S.) 839.

Section 258 (p. 299). Before the hearing of a summons for encroachment on a highway, the informant served one of the bench of justices with a *subpœna* to produce a charter, which was supposed to show that a place was a market town. The justice had previously offered the document, and had no interest whatever in the matter; and though objected to as disqualified, sat and adjudicated. Held, that the mere fact of a justice being a witness was not necessarily a disqualification for adjudicating, and rule for *certiorari* discharged, with costs. *Reg.* v. *Tooke*, 48 J. P. 665.

Section 265 (p. 310). D. contracted with the defendants, an urban authority, to supply by the day a driver and horse to drive and draw a watering-cart belonging to the defendants. The driver was employed and paid by D., and was not under the defendants' direction or control, otherwise than that their inspector directed him what streets to water. In an action to recover damages for injuries caused by the negligent conduct of the driver whilst in charge of the cart: held, that the defendants were not liable. *Quarman* v. *Burnett*, 6 M. & W. 499, followed; *Rourke* v. *White Moss Colliery Company*, 2 C. P. D. 205, distinguished; *Jones* v. *Corporation of Liverpool*, 14 Q. B. D. 890; 49 J. P. 311; 33 W. R. 551; 54 L. J. Q. B. 345.

Section 269 (p. 324). Appeal lies to the Court of Appeal from the decision of the Divisional Court in a case stated under 12 & 13 Vict. c. 45, s. 11, it not being a decision on appeal from petty or quarter sessions within the meaning of the Judicature Act, 1873, s. 45, but being an order within section 19 of that Act. *Holborn Union* v. *Chertsey Union*, 15 Q. B. D. 76; 54 L. J. M. C. 137; 50 J. P. 36.

Section 297 (p. 347). In an inquiry as to the propriety of making a provisional order under the corresponding section of the Public Health (Ireland) Act (41 & 42 Vict. c. 52, s. 214), the Local Government Board are not acting in a judicial capacity; and therefore a writ of prohibition cannot be obtained to prohibit them from holding such inquiry. *In re The Local Government Board; Ex parte Kingstown Commissioners*, 17 L. R. Ir. 150.

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Schedule I., rules 2, 9 (p. 386). Seven members of a local board constituted under the Public Health Act, 1875, and consisting of nine members, resigned, so that the quorum of three required by Schedule I., rule 2, was not left. The two remaining members proceeded to fill up the vacancies. The board as thus constituted prescribed a building line under section 155 of the Act. Held, by PEARSON, J., that as the resignations reduced the number of members to less than a quorum, the board had lapsed; that the two remaining members could not fill up the vacancies; that there was, therefore, no board; that the building line was, therefore, not well prescribed; and that Schedule I., rule 9, to the Act did not cure the defect. Held, by the Court of Appeal, that the filling up of vacancies was "business" within the meaning of Schedule I., rule 2; that the two members were not competent to transact it; and that the new members, therefore, were not duly elected; but that, by Schedule I., rule 9, the objection to the building line, founded on the fact that some of the members of the board were not duly elected, was removed. *Newhaven Local Board* v. *Newhaven School Board*, 30 Ch. D. 350.

Schedule II., Part 1, rule 11 (p. 395). By the 18 & 19 Vict. c. 120, s. 6, the vestry elected under that Act in any parish is to consist of persons rated or assessed to the relief of the poor upon a rental of not less than 40*l.* per annum; and no person is to be capable of acting or being elected as one of such vestry for any parish unless he is the occupier of a house, lands, tenements, or hereditaments in such parish, and be rated or assessed as aforesaid upon such rental as aforesaid within such parish. Held, that to be qualified as a vestryman under the Act, a person must be the occupier of real property in the parish, and be himself rated or assessed in respect of such occupation to the required amount. It is not sufficient that a person is the owner of property as to which he has agreed with the overseers to pay the rates under 32 & 33 Vict. c. 41, s. 3. *Mogg* v. *Clark*, 15 Q. B. D. 82; 54 L. J. Q. B. 334; affirmed in Court of Appeal, 34 W. R. 66.

8 Vict. c. 18, s. 9 (p. 508). The certificate or declaration in writing required by this section on sales of land by persons under disability to be annexed by the surveyors to their valuation, is an essential part of the procedure under this section; and in the absence of such certificate or declaration, specific performance of an agreement under the statute with a person under disability will not be decreed against such person. *Bridgend Gas and Water Company* v. *Lord Dunraven*, 34 W. R. 119.

8 Vict. c. 18, s. 16 (p. 510). The S. railway company by their Act were prohibited from taking compulsorily more land from the G. W. railway company than was necessary, but they might buy a perpetual easement to use such lands where indispensable. The S. company requiring to build a bridge over G. W. line, gave the usual notice to treat for a perpetual use; but the G. W. company made no claim of any sum, whereon the S. company entered on the land under the Lands Clauses Act, ss. 84, 85. Held, the G. W. company were not entitled under section 16 to demand that no entry should be made till all the capital of the S. company was subscribed, as that section did not apply. *Quære*, whether the perpetual easement was land within the meaning of the Lands Clauses Act. *Great Western Railway Company* v. *Swindon, &c., Railway Company*, 48 J. P. 821.

8 Vict. c. 18, s. 24 (p. 512). The determination by justices under this section, of the compensation to be paid by a railway company for having in the construction of the railway injuriously affected his land, is not an order of the justices for the payment of money within 11 & 12 Vict. c. 43, s. 11, which limits the time for making a complaint to six months from the time when the matter of such complaint arose, and therefore the justices have jurisdiction to hear and determine the question of such disputed compensation, although the application be made more than six months after the land has been so injuriously affected. *Re Edmundson*, 17 Q. B. 67, overruled; *Reg.* v. *Edwards*, 13 Q. B. D. 586; 53 L. J. M. C. 149; 49 J. P. 117.

8 Vict. c. 18, s. 25 (p. 512); section 30 (p. 513); section 92 (p. 530). Where arbitrators have been appointed under section 25 of the Lands Clauses Act,

1845, and one arbitrator refuses or neglects for seven days to concur in the appointment of an umpire, the other arbitrator has power, under section 30 of the Act, to proceed *ex parte* to make an award, and the previous appointment of an umpire is not in such a case a condition precedent to the *ex parte* proceedings. A corporation, three days before the expiration of their compulsory powers, without making any attempt to discover and serve the owner of the property, served a notice to treat on the occupier of part of the premises comprised in the notice to treat, who was the agent of the owner for the management of his property. The occupier took it the same day to the solicitor of the owner, and also wrote to the owner, but it did not appear that, as a matter of fact, the notice came to the hands of the owner before the three days had expired. The owner, however, after the expiration of the three days gave a counter notice under section 92, requiring the corporation to take the whole of his property. This notice he subsequently withdrew, and required the corporation to proceed with the purchase of the land specified in their notice to treat, which they declined to do. Held, that the service of the notice to treat was irregular and invalid, and that the owner could not, by his subsequent adoption of the notice, cure the irregularity and compel the corporation to proceed with it. The conditions necessary for service of a notice to treat discussed. *Shepherd* v. *Corporation of Norwich*, 30 Ch. D. 553; 53 L. T. (N.S.) 251.

8 Vict. c. 18, s. 63 (p. 520). Part of land laid out as a building estate was taken by a local board under an Act incorporating the Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), for the purposes of a sewage farm, whereby the value of other parts of the land near to the part so taken was depreciated, even in the absence of any nuisance arising from the sewage farm when made. Held, that the owner of the estate was entitled to compensation under the Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), s. 63, not only in respect to the land taken, but also for damage sustained by reason of the "injuriously affecting" the other lands by the exercise of the statutory powers. *Reg.* v. *Essex JJ.*, 14 Q. B. D. 753; 49 J. P. 87; 32 L. T. (N.S.) 926.

8 Vict. c. 18, s. 68 (p. 521). Under statutory powers conferred by an Act incorporating the Lands Clauses Act, 1845 (8 & 9 Vict. c. 18), a railway company stopped up a street in which were a house and premises used as an hotel, whereby the value thereof for using, selling, or letting as an hotel and public-house was diminished. Held, that the owner was entitled to compensation under the Lands Clauses Act, 1845, for the depreciation in the special value of the premises as an hotel and public-house. *Wadham* v. *North Eastern Railway Company*, 14 Q. B. D. 747; 54 L. J. Q. B. 343; 52 L. T. (N.S.) 894; 49 J. P. 600.

8 Vict. c. 18, s. 68 (p. 521). The plaintiffs, in 1843, under the authority of a local Act, constructed a sewer on land, part of which had been bought by the defendants, a railway company, but had not then been used for their works. Part of the remainder was bought by the defendants after the construction of the sewer, but no part of the land was the plaintiffs, or had ever been granted to them. The local Act not only authorized the plaintiffs to make the sewer, but vested it in them, with the duty to repair it, without, however, giving them any express right of access thereto. In 1863 the defendants, in exercise of the powers conferred on them by their special Act, with which was incorporated the Railways Clauses Consolidation Act, 1845, constructed an embankment over the sewer, which, though it made it less easy, did not prevent the plaintiffs getting access to the sewer in order to repair it. The plaintiffs being obliged afterwards to repair, and having incurred extra expense in doing so in consequence of such embankment, claimed compensation from the defendants under section 68 of the Lands Clauses Consolidation Act, 1845, and section 6 of the Railway Clauses Consolidation Act, 1845, for injuriously affecting the plaintiff's interest in the sewer. Held, by the Queen's Bench Division, that the plaintiffs had no interest in land within the meaning of the Lands Clauses Consolidation Act, 1845, s. 68, and, therefore, could not maintain the claim to compensation. Held, by the Court of Appeal, that as a right of access to the sewer had not been expressly given by the local Act, but had to

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be implied, the right of access which ought to be implied was not any particular mode of access, but such only as was reasonably necessary for enabling the repair of the sewer to be done, and as that had not been prevented by the defendants' embankment, but only rendered less easy and convenient, the plaintiffs had no right to compensation. *Mayor of Birkenhead* v. *London and North-Western Railway Company*, 15 Q. B. D. 572; 49 J. P. 135.

10 Vict. c. 14, s. 13 (p. 568). The T. Market Act prohibited the selling within certain limits of the market corn, grain, fish, meat, poultry, or other provisions, or any bulls, sheep, swine, or other live cattle which are usually sold in public markets. Held, that a shopkeeper selling potatoes came within the statute, these being provisions, and usually sold in public markets. Held also, that a successful appellant, on a case stated by justices, is entitled to his costs, though the respondent does not appear to support the judgment of justices. *Shepherd* v. *Folland*, 49 J. P. 165.

10 Vict. c. 15, s. 18 (p. 580). The appellants on their own premises substituted for part of a gas pipe belonging to the company a larger pipe for the purpose of increasing their supply. This was done without any fraud, waste, or misuse of the gas, but without the company's consent, although notice of intention to disconnect the pipe from the meter was duly given under 34 & 35 Vict. c. 41, s. 15. Held, that the appellants were rightly convicted under 10 Vict. c. 15, s. 18, of causing a pipe to be laid communicating with a pipe belonging to the undertakers without their consent. *Morrison, Wood and Co.* v. *West Ham Gas Company*, 52 L. T. (N.S.) 817; 33 W. R. 799; 49 J. P. 662.

10 Vict. c. 15, s. 35 (p. 584). A local board obtained from the recorder of a borough an order under this section for the appointment of an accountant to examine the company's books. He was unable to verify the accounts, and another order was obtained to appoint a gas engineer to assist the accountant as to matters of value. Held, that the second order was made without jurisdiction, as the powers under the statute was merely to appoint one competent person, and that power had been exhausted on the first order. *Reg.* v. *Brindley*, 49 J. P. 820.

10 Vict. c. 17, s. 68 (p. 601). Although the statutory remedy provided by section 68 of the Waterworks Clauses Act, 1847, for the settlement by two justices of disputes as to the annual value of a tenement supplied with water, and the special remedy by penalties given by section 43 against a company for withholding water, have not ousted the general jurisdiction to restrain the company by injunction from cutting off the supply of water pending proceedings for settling a dispute as to the value, such injunction will not be granted on the application of an owner or occupier who will not undertake to commence proceedings with due speed before the justices under section 68. *Hayward* v. *East London Waterworks Company*, 28 Ch. D. 138; 52 L. T. (N.S.) 175; 49 J. P. 452.

10 Vict. c. 17, s. 68 (p. 601). Section 68 of the Bristol Waterworks Act, 1862, enacts that the company shall furnish to every occupier of a private dwelling-house within their limits a sufficient supply of water for the domestic use of such occupier, at certain annual rents or rates according to the "annual rack-rent or value of the premises so supplied," such supply (by section 71) not to include, amongst other things, a supply of water "for watering gardens by means of a tap, tube, pipe, or other such like apparatus." And section 32 of the Bristol Waterworks Amendment Act, 1865, enacts, that "if any dispute shall arise as to the amount of the annual rent or value of any dwelling-house or premises supplied with water by the company, such dispute shall be decided by two justices: Provided, that the amount of the annual rack-rent or value to be fixed by such justices shall not be less than the gross sum assessed to the poor rate, or less than the rent actually paid for such dwelling-house or premises." A dwelling-house and garden in the occupation of the owner were assessed to the poor rate as follows: "Gross estimated rental, 240*l.*; rateable value, 204*l.*" It was proved that the value of the house without the garden would be 10 per cent. less, and that the owner contracted to pay, and did pay, 1*l.* 1*s.* annually for the watering, by means of a pipe and tap, in the garden which surrounded

the dwelling-house and was occupied and assessed therewith. Held, upon a case stated by the justices, that the words "gross sum assessed to the poor rate" meant the "gross estimated rental," and not "rateable or net value," and that the water-rent was chargeable upon the gross estimated rental of "the premises," including the pleasure garden occupied with the house, and not merely upon the dwelling-house itself, the extra charge for the garden supply being for using a pipe and tap. *Bristol Waterworks Company* v. *Uren*, 15 Q. B. D. 637; 52 L. T. (N.S.) 655; 49 J. P. 564; 54 L. J. M. C. 97.

10 Vict. c. 17, s. 68 (p. 601). Two or more justices have jurisdiction at the same hearing and upon the same summons not only to make an order enforcing the payment of a water rate, but also to decide a dispute as to the annual value of the tenement on which the rate is to be levied. *Lea* v. *Abergavenny Improvement Commissioners*, 34 W. R. 105.

10 Vict. c. 17, s. 68 (p. 601). Where a dispute has arisen as to the amount of the water rate payable by an occupier of premises to a water company, the determination of the annual value of the premises supplied, by two justices, under this section, is a condition precedent to the right of the occupier to sue the company for cutting off the water, and for the amount alleged to have been paid in excess. *Whiting* v. *East London Waterworks Company*, 1 C. & E. 331.

10 Vict. c. 17, s. 68 (p. 601). By the special Act of a water company it was provided that water should be supplied for domestic purposes by the company at a rate per cent. upon the annual value of the dwelling-house or other place supplied; that a supply of water for domestic purposes should not include a supply of water for, among other things, any trade, or manufacture, or business requiring an extra supply of water; and that the company might furnish water for other than domestic purposes on such terms as might be agreed on between the company and the consumer. The company supplied water for domestic purposes to a house occupied as a licensed public-house. The company contended that the annual value of the premises as a licensed public-house should be taken as the basis of the water rate payable in respect of such supply, and that, therefore, the fact of the premises being licensed, and a premium which had been paid for the lease of the premises as a public-house, ought to be taken into consideration in fixing the value. The occupier contended that such water rate should be based upon the value of the premises for domestic purposes only. Held, that the contention of the company was correct. *West Middlesex Waterworks Company* v. *Coleman*, 14 Q. B. D. 529; 49 J. P. 341; 54 L. J. M. C. 70; 33 W. R. 549; 52 L. T. (N.S.) 578.

10 Vict. c. 17, s. 74 (p. 603). The W. Waterworks Act, 1852, incorporated 46 Geo. 3, c. 119, by which power was given to distrain for water rates agreed upon between the company and their customers. By 50 Geo. 3, c. 132, s. 13, the company were empowered to charge a reasonable sum instead of an agreed sum. By the 10 Vict. c. 17, ss. 74, 85, it was provided that damages not specially provided for are to be ascertained by two justices under 8 Vict. c. 20, s. 140. Held, that the right of distress was kept alive by the W. Act of 1852, and was not destroyed by the 10 Vict. c. 17. Held also, that one who commits an unnecessary assault in levying a distress is not acting within the scope of his employment. *Richards* v. *West Middlesex Waterworks Company*, 33 W. R. 902; 49 J. P. 631; 54 L. J. M. C. 551.

10 & 11 Vict. c. 65, s. 36 (p. 623). A bye-law of a cemetery prohibited a discharged servant from being admitted to the cemetery, except by special leave of the directors, and it authorized his removal. D., the owner of a grave, employed W., a discharged servant, to do some work. Held, there was nothing unreasonable in the bye-law, and that W. was rightly excluded by force from the cemetery. *Martin* v. *Wyatt*, 48 J. P. 215.

10 & 11 Vict. c. 89, s. 28 (p. 635). Persons using a traction engine and trucks on a highway may be indicted for a nuisance if they create a substantial obstruction, and occasion delay and inconvenience to the public, substantially greater than such as would arise from the use of carts and horses. The owners are responsible for the general management of the engine by their servants. *Reg.* v. *Chittenden*, 49 J. P. 503.

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10 & 11 Vict. c. 89, s. 28 (p. 635). The statute 25 & 26 Vict. c. 102, s. 73, extends to the metropolis the powers of improving and regulating streets, and for suppressing nuisances contained in 57 Geo. 3, c. xxix. S. kept a barrow of chestnuts several hours standing in a street in the F. district, which was outside the area of the Metropolitan Traffic Act, 30 & 31 Vict. c. 135, but within the metropolis, and an officer of the local board desired him to remove, but he refused. Held, that S. was liable to be convicted of an offence contrary to 57 Geo. 3, c. xxix., s. 65, his refusing to remove being within the nuisances or annoyances there described. *Fulham Board of Works* v. *Smith*, 48 J. P. 375.

10 & 11 Vict. c. 89, s. 28 (p. 635). G. was occupier of lands through which a highway was made twenty feet deep, the soil being marly, and the retaining wall perpendicular. Owing to rains ten loads of soil fell on the highway, and notice was frequently given to G. to remove the same, which he omitted to do. The wall had been occasionally repaired by G. G. being summoned under 5 & 6 Will. 4, c. 50, s. 72: held, he was rightly convicted of wilfully obstructing the highway by allowing the soil to lie on the highway. *Gully* v. *Smith*, 12 Q. B. D. 121; 53 L. J. M. C. 35; 48 J. P. 309.

10 & 11 Vict. c. 89, s. 28 (p. 636). The offence of indecent exposure under this section can only be committed in a street. But the common law misdemeanor may be committed in a place where the public are permitted to go, though they may have no legal right to do so. See *Reg.* v. *Wellard*, 14 Q. B. D. 63; 49 J. P. 296.

33 & 34 Vict. c. 78, s. 4 (p. 709). A bye-law was made by the Board of Trade pursuant to an Act confirming a provisional order to the effect that no steam should be emitted from a tramway engine so as to be a reasonable ground of complaint to passengers or the public. H., the driver of an engine, was resting the engine which was not in good repair, and he could not help emitting steam—one passenger only, when passing, complained. Held, that H. was rightly convicted of an offence against the bye-law. *Hartley* v. *Wilkinson*, 49 J. P. 726.

33 & 34 Vict. c. 78, ss. 51, 52 (p. 736). A passenger on a tramway tendered a half-sovereign to the conductor of the car in payment of a fare. The conductor, supposing the coin to be counterfeit, gave the passenger in charge to the police. Held, that the tramway company were liable in an action against them by the passenger for false imprisonment. *Furlong* v. *South London Tramway Company*, 48 J. P. 328.

38 & 39 Vict. c. 63, s. 6 (p. 806). An inspector on asking a milk seller for milk, was supplied with milk which had been skimmed, and which was, in consequence, as compared with normal milk as it comes from the cow, deficient in butter-fat to an extent of 60 per cent. Held, that on these facts it was not proved that any offence had been committed against the provisions of the Sale of Food and Drugs Act, 1875. *Lane* v. *Collins*, 14 Q. B. D. 193; 49 J. P. 89; 33 W. R. 365; 52 L. T. (N.S.) 257; 54 L. J. M. C. 76.

38 & 39 Vict. c. 63, s. 6 (p. 806). The Sale of Food and Drugs Act, 1875, after reciting that it is desirable to amend the law regarding the sale of food and drugs in a pure and genuine condition, provides by section 6 that no person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser under a penalty. Held, that section 6 was not limited in its application to sales of adulterated articles, but that it applied also to cases in which the article sold was unadulterated, but wholly different from that demanded by the purchaser. *Knight* v. *Bowers*, 14 Q. B. D. 845; 49 J. P. 614; 33 W. R. 613; 54 L. J. M. C. 108; 53 L. T. (N.S.) 234.

38 & 39 Vict. c. 63, s. 6 (p. 806). C. was carrying a milk-can in a street, and, on inquiry, he told K. that the can contained new milk. C. had a cart with him in which were other cans, some of which he said contained old milk. K. pointed to the can said to contain new milk, and asked for a pint of milk out of it. C., after hesitating, said, "This can contains old milk," and then sold a pint of it to K. When examined, the milk sold showed a result good enough for old, but not for new milk. Held, that the justices were right in dismissing

the summons under the above section, as there had been no sale of new milk, but only of old milk. *Kirk* v. *Coates*, 49 J. P. 704; W. N. 1885, p. 202.

38 & 39 Vict. c. 63, s. 14 (p. 808). The provisions of this section do not apply to the purchase of an article unless for analysis, and, therefore, it is not a condition precedent to the right of a purchaser for consumption to take proceedings for a penalty under the Act that he should have given to the seller the notification required by that section. *Parsons* v. *Birmingham Dairy Company*, 9 Q. B. D. 172 (p. 808), dissented from. A sample of milk in course of delivery by the defendant's servant under a contract for the delivery thereof to a workhouse, was procured for analysis by the master of the workhouse, and divided by him into three portions, one of which he retained, another he gave to the defendant's servant, and the third he enclosed in a bottle labelled "milk," and having on it the name of the contractor, and sent it by rail to the public analyst, who analysed it, and gave his certificate as provided by the statute. The defendants having been fined for the act of adulteration: held, that a purchase was shown under the Act, there being a buyer on one side and seller on the other; that section 14 did not apply, and no notification was necessary as a condition precedent to the bringing of the prosecution; that there was sufficient evidence that the milk taken was the milk submitted to analysis; and that a corporation such as the board of guardians was within the statute. *Enniskillen Union, Guardians of*, v. *Noble Hilliard*, 14 L. R. Ir. 214.

38 & 39 Vict. c. 63, s. 22 (p. 810). Held by the High Court of Justiciary in Scotland (*dissentiente* Lord CRAIGHILL) that the reference under this section to the Somerset House officers is for the purpose of obtaining the result of their analysis merely, and that, therefore, their opinion as to what is the minimum per centage of fat to be found in new milk cannot be received as evidence. *Dargie* v. *Dunbar*, 11 Court of Sessions Cases, 4th series, p. 36.

41 & 42 Vict. c. 77, s. 10 (p. 917). Where a road in a highway board is out of repair the inhabitants may apply to quarter sessions for an order on the board limiting the time for repairs, and unless the board can thereafter satisfy the quarter sessions that the road is not a highway, and that they ought to rescind that order, the quarter sessions are bound to order an indictment for non-repair. And the admission of the board that the roads are highways is not a condition precedent to the quarter sessions acting. *Reg.* v. *Cheshire JJ.*, 48 J. P. 262.

41 & 42 Vict. c. 77, s. 13 (p. 918); section 38 (p. 928). Liberties merged into counties by the Highway Act, 1862, are revived by the Highway Act, 1878, and, so far as that Act applies, are to be deemed separate "counties." The "county authority" for such liberties are the justices of those liberties in quarter sessions assembled. A recorder of a borough to which such liberties belong, when holding his quarter sessions, represents the justices of such counties in quarter sessions assembled, and he must be deemed to be the county authority under section 15, and be required to exercise the jurisdiction of such county authority. The plea that there is no machinery for exercising such jurisdiction is not sufficient to excuse the authority having such jurisdiction from acting when properly applied to for that purpose. *Reg.* v. *Recorder of Carmarthen*, 7 A. & E. 756, and *Reg.* v. *Mayor of East Looe*, 10 W. R. 866, followed. *Reg.* v. *The Recorder of Dover*, 32 W. R. 876; 49 J. P. 86.

41 & 42 Vict. c. 77, s. 13 (p. 918); section 38 (p. 928). By the Highway Act, 1862 (25 & 26 Vict. c. 61), s. 2, defining the word "county," "for the purposes of this Act all liberties and franchises, except boroughs, ... shall be considered as forming part of that county by which they are surrounded." By the 41 & 42 Vict. c. 77, s. 38, "In this Act 'county' has the same meaning as it has in the Highway Acts, 1862 and 1864," and by section 13 one-half the expense of maintaining a main road in a highway area is to be paid to the highway authority of such area "by the county authority of the county in which such road is situate" out of the county rate. A road in the borough and highway area of O., in the county of L., ceased to be a turnpike road in 1877 and became a main road. Held, that although for the purposes of the Highway Act, 1862, boroughs are not to be considered as forming parts of

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counties, yet, as the road was within the geographical limits of L., the county of L. was "the county in which such road is situate" within section 13, and the county authority was liable to pay half the expenses incurred in the maintenance of such road. Judgment of the Queen's Bench Division (13 Q. B. D. 497) affirmed. *Mayor, &c., of Over Darwen* v. *Justices of Lancaster*, 15 Q. B. D. 20; 51 L. T. (N.S.) 739; 54 L. J. M. C. 51.

41 & 42 Vict. c. 77, s. 16 (p. 919). A road which ceased to be a turnpike road between the 31st December, 1870, and the passing of this Act, and which had become a main road, there being no application for a provisional order before the 1st February, 1879, is not excluded from the provisions of the section as to a road ceasing to be a main road and becoming an ordinary highway, and the Local Government Board have, therefore, jurisdiction to make a provisional order declaring such road an ordinary highway upon an application made subsequently to the 1st February, 1879. *Reg.* v. *Local Government Board*, 15 Q. B. D. 70; 54 L. J. M. C. 104; 49 J. P. 580; 53 L. T. (N.S.) 194.

41 & 42 Vict. c. 77, s. 23 (p. 921). L. contracted with the Government to erect a rifle range, and employed D., a sub-contractor, to cart the stone. Nothing in the contract between L. and D. specified the mode of conveying the stone. D. used traction-engines, and caused excessive injury to the highway. Held, that L. was not the person liable for the extraordinary traffic, but that D. was liable, as being the only person by whose order the excessive weights were carried. *Lapthorn* v. *Harvey*, 49 J. P. 710.

41 & 42 Vict. c. 77, s. 23 (p. 921). A road called Carter's Hill, in the parish of S., was used solely for agricultural traffic. S. was situate on a range of hills in which were a number of stone quarries, from which, for many years, the surrounding country, including the appellants, had drawn stones for the repair of highways. Until 1882, however, there had been no quarry in S. In that year a quarry was opened in S. at the top of Carter's Hill, and the stone was conveyed down the hill by the appellants from the quarry in the manner customary in the stone traffic, *i.e.*, in heavy waggons with the wheels chained. This caused extraordinary expenses within the meaning of section 23, and the appellants were ordered to pay the amount. It was held that the evidence warranted the justices in coming to the conclusion that the traffic was extraordinary on this particular road, and that the order was right. *Tonbridge Highway Board* v. *Sevenoaks Highway Board*, 33 W. R. 306; 49 J. P. 340.

41 & 42 Vict. c. 77, s. 31 (p. 926). D. was charged with using a locomotive engine on a bridge contrary to the bye-laws. He had two locomotives, one of which brought the waggons to the end of the bridge and there stopped. By means of ropes he used the locomotives on each end to drag the waggons across the bridge and to the other side thereof, whereupon they were taken on by the other locomotive waiting for them. The justices held this was using the locomotive on the bridge, and convicted. Held, the justices were wrong. *Dawson* v. *Cruit*, 48 J. P. 148.

47 & 48 Vict. c. 70, s. 14 (p. 999); section 17 (p. 1000). B. and A. were candidates at a local board election. A. received at his house a printed letter, with the name and address of B., soliciting votes. The letter had no printer's name. The only evidence of B. having published the letter was that B.'s brother had given the order, and the printer entered the order to the debit of B. Similar letters or bills were posted all over the district. Held, that the justices were wrong in convicting B., as the evidence merely amounted to suspicion. *Bettesworth* v. *Allingham*, 50 J. P. 55.

47 & 48 Vict. c. 70, ss. 16, 20 (p. 1000). In order to support an application under section 20 of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, it will not be sufficient that notice of intention to make the application has been advertised in local papers, but such notice should be published in such a manner as will ensure a reasonable certainty that persons interested had notice; and it will also be insufficient in the affidavits upon which the application is made merely to state that the act, in respect of which relief is sought,

arose from inadvertence, and not from any want of good faith, without showing some reasonable excuse for such inadvertence. *Ex parte Perry*, 48 J. P. 825.

45 & 46 Vict. c. 50, s. 87 (p. 1021); section 93, sub-section 7 (p. 1023). An election petition may be presented under this section against some only of the persons returned at a municipal election, although the ground of the petition is one affecting the validity of the election as a whole; and the court can, on such petition, declare the person so petitioned against not to have been duly elected. The three respondents and six other persons were nominated as candidates to fill four vacancies in the town council of a borough. An objection having been made to the nomination papers of H. and three other candidates (not the respondents) on the ground that they were invalid under 45 & 46 Vict. c. 50, Sched. 3, Part II., Rule 10, because the persons subscribing the paper in each case had subscribed nomination papers of other candidates, the mayor erroneously held the objection to be good, being of opinion that Rule 10 applied to a case where there were several vacancies. The objection to H. was withdrawn, but the three other candidates objected to were prevented from going to the poll, and at the election, which was afterwards held, H. and the three respondents were declared duly elected. Upon a petition against the return of the respondents, to which H. was not a party, it was admitted that, as the objection would have been valid against all the candidates returned, the whole election might have been declared void if H. had been a party to the petition; but it was contended that as he was not before the court, and, therefore, as his election could not be questioned, the return of the respondents must stand good. Held, that although the erroneous decision of the mayor affected the validity of the whole election, nevertheless the court had power to deal with those candidates returned who were petitioned against, and that the return of the respondents must be declared void, notwithstanding that the return of H. could not be questioned, he not being a party to the petition. Notwithstanding section 93, sub-section 7, which enacts that the decision of the High Court upon a petition questioning a municipal election shall be final, nevertheless an appeal, if leave be given, lies from a judgment of the Queen's Bench Division upon a petition of that nature to the Court of Appeal owing to section 242, which, in effect, incorporates the Supreme Court of Judicature Act, 1881, s. 14, whereby, in certain cases, an appeal is allowed from the High Court to the Court of Appeal if special leave be given. *Line* v. *Warren*, 14 Q. B. D. 548; 53 L. T. (N.S) 446; 54 L. J. Q. B. 291; 49 J. P. 516.

45 & 46 Vict. c. 50, s. 88 (p. 1021). In the absence of special circumstances the time for delivery of the particulars of the charges in a petition against the election of town councillors of a municipal borough is seven clear days before the day of trial of the petition. An order for the delivery of particulars need not be limited to "so far as is known." *Lenham* v. *Barber*, 48 J. P. 23.

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	Do. do. Quarto, 36 lines on a page—			
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Urban Sanitary Authorities.

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	6½ by 10 inches, Half-bound - -	1 qr.,	650 names	4	6
	Do. „	2 qrs.,	1,330 „	6	0
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40*a*	**Do. do.** 36 lines on a page—				
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33	Collectors' Receipt and Payment Book - - 1 *quire*	6	0
	Demand Note - - - - - - *in books of* 100	2	0
43	Collectors' Weekly Statement *per quire of* 48 *forms*	3	0
	Do. - - - - - *in book*	8	0
44	Collectors' Unpaid Rate Statement *per quire of* 48 *forms*	3	0
	Do. - - - *in book*	8	0

Financial Statement, &c.

New Form of Financial Statement shewing the Receipt and Expenditure of the Local Board as prescribed by the Local Government Board, April, 1884, 4 *h eets of Foolscap in paper wrapper* - - - - - - - - *each*	1	0
Do. do. - - - - - *in books*	12	6

SHAW & SONS, Printers and Publishers,

THE FOLLOWING SET OF

ACCOUNT BOOKS FOR A SMALL LOCAL BOARD,

Can be supplied for the very moderate sum of £4:—

			s.	*d.*
A.	Minute Book.	3 qrs., whole Basil	14	0
B.	Ledger.	3 qrs., whole Basil	14	0
C.	Highway Repairs Expenditure Account.	Weekly Payments	4	0
D.	Order Check Book		4	6
L.	General Receipt Book		1	6
M.	Cash Account Book		7	6
E.	Treasurers' Account Book.	Small size	6	0
F.	Wages Account Book	½ *quire limp*	5	0
G.	Stores Account Book	1 *quire*	7	6
	Financial Statement,	new form, as prescribed ½ *quire*	12	0
	Roberts' Exemplification		4	0
		Total	£4	0 0

The Rate Collecting Books, Rate Receipt Books, and Collecting and Deposit Books are purposely omitted from the above estimate, as the necessity for these vary according to the Board's requirements.

NASH'S PRACTICAL GUIDE FOR SURVEYORS OF HIGHWAYS in Highway Parishes and Districts. Annotated and Enlarged. With an Appendix and Copious Index. Also an Exemplification of Highway Parish Accounts. By H. Lloyd-Roberts, Esq., 1880. *Eighth Edition.* By George G. Greenwood, Esq., of the Middle Temple, Barrister-at-Law. *Demy* 8*vo., pp.* 186. 1880. *Price* 5*s.*

LIST OF

IMPROVEMENT ACT COMMISSIONERS'

ACCOUNT BOOKS AND FORMS.

Clerk's Books.

		s.	d.
A.	**Minute Book** (Special Form), Demy Folio, Hand-made paper, full Green Vellum - - - - - - - 5 *quires*	30	0
	Do. do. Foolscap Folio, Green Vellum 5 „	24	0
	Do. do. 3 qrs., Bound in Basil, for small Boards - - - - - - - - - - - -	14	0
	Do. do. Half-bound, 3 qrs., for Rough Minutes - - - - - - - - - - - -	8	6
B.	**Ledger**, Demy Folio, Hand-made paper, Green Vellum 5 *quires*	30	0
	Do. Foolscap, Rough Calf - - - - - 5 „	24	0
	Do. do. 3 qrs., Bound in Basil, for small Boards	14	0
	Do. do. Half-bound, 3 qrs., for Rough Entries	8	6
C.	**Highway Repairs Expenditure Account**, in Books, Weekly Payments, for Two Years - - - - - - - -	4	0
	Do. do. do. Fortnightly, for Four Years	4	6
D.	**Order Check Book**, in books of 100 each - - - -	4	6
	Do. Six Books, with name of Board printed in	22	6
M.	**Cash Account Book**, 1 qr., *see* Art. 11 of Order - - -	7	6
	Do. 2 qrs. ditto - - -	10	0

Treasurer's Accounts.

E.	**Treasurer's Account Book**, Fcap. Folio, Half-boud, 1 *quire*	7	6
	Do. do. do. 2 *quires*	10	0
8	**Treasurer's Pass Book** - - - - - - - -	4	0

Surveyor's Accounts.

		s.	d.
F.	Wages Account Book, for Weekly Payments, Bound Limp, ½ *quire*	5	0
	Do. Half-bound - - - 1 *quire*	7	6
	Do. - - *loose sheets, per quire*	4	0
G.	Stores Account, Half-Bound - - - - - 1 *quire*	7	0
	Do. do. - - - - - 2 *quires*	10	0
M.	Cash Account Book, 1 qr., *see* Article 6, section 3, of Order -	7	6
	Do. 2 qrs., do. - - -	10	0
L.	General Receipt Book, 100 each, do. - - -	1	6

Collectors' and other Officers' Accounts.

H.	Rate Books. *See pp.* 7-10.		
I.	Collecting and Deposit Account, Half-bound - 1 *quire*	9	0
	Do. do. do. - 2 *quires*	12	0
	Do. do. do. - 3 „	15	0
K.	Rate Receipt Check Book - - - *in books of* 100	1	0
	Do. do. - „ 200	1	6
	Do. do. - „ 300	2	0
	Where Six Books of 200 are taken, the name of the Board can printed in without extra charge.		
O.	Financial Statement - - - - *in books* 1 *quire each*	10	0
	Do. - - - - *loose sheets, per quire*	6	0
Q.	Loan Account, Half-bound - - - - 1 *quire*	10	0
	Do. - - - - *loose sheets, per quire*	6	0

RURAL SANITARY AUTHORITIES.

Clerks' and Treasurers' Books.

No.			s.	d.
1	Minute Book,	demy, bound in calf, and specially lettered for Sanitary Authority - - - - -	25	0
1*a*	Do.	foolscap, 5 quires, bound in calf, and lettered do. - - - - - - - -	18	0
1*b*	Do.	foolscap, Rough - - 3 *quires, half-bound*	8	6
2	General Ledger,	demy, calf, and specially lettered for Sanitary Authority - - - - - - -	28	0
2*a*	Do.	foolscap, 5 quires, calf, and lettered ditto -	21	0
	Do.	rough - - - - - - - -	10	0
2*b*	Parochial Ledger,	demy, 5 quires, calf - - - -	28	0
2*c*	Do.	do. half page for Special Expenses -		
2*d*	Do.	two half-years on a page, demy, 5 quires, calf	32	6
2*e*	Do.	foolscap, 5 quires, calf - - - -	21	0
	Do.	„ 3 „ half-bound and lettered -	10	0
	Do.	„ rough - - - - -	10	0
2*f*	Do.	„ two half-years on a page, 5 *quires*	26	0
2*g*	Do.	„ half page for Special Expenses „		
3	Letter Book	for Copying Press, foolscap, bound half-calf, and lettered - - - - - 250 *leaves*	7	6
		500 „	10	0
		1000 „	15	0
3*a*	Letter Book	for Copying Press, quarto - - - 250 „	5	6
		500 „	8	0
		1000 „	12	0
4	Precept to Overseers for General Expenses,	*in books of* 50 *each*, 4*s.*; 100 *each*	7	6
5	Precept for Special Expenses - -	*in books of* 50 *each*	4	0
	Do.	- - „ 100 „	7	6
5*a*	Petty Cash Book - - - - - - - - -		5	0
	Return	of Medical Officers' and Inspectors' Salaries *per quire*	3	0
	Do.	1 quire, double size, in books - - -	10	0
5*c*	Financial Statement	- - - - - *per quire*	7	6
	Do.	- - - *in books of* 2 *quires*	27	6
5*d*	Parochial Statement	- - - - - *per quire*	3	6

Rural Sanitary Authorities.

No.		s.	d.
C	**Weekly Return**, from Clerk to the Guardians to the Medical Officer of Health, of Sickness and Deaths in the Union Workhouse - - - *per quire* 48 *forms*	4	0
D	**Weekly Return** of Out-door Sickness and Death „	4	0
7	**Treasurers' Receipt and Payment Book**, foolscap ½ *quire*	7	6
7*a*	Do. royal 8vo., bound red skiver - - 2 *quires*	8	6
8	**Treasurers' Pass Book** - - - - - - - -	4	0
9	**Cheques** on Treasurer, in books of 100 - - - - -	4	0
	Do. engraved with Name of Authority, Treasurer, &c., filled in, and printed on surface tints to prevent erasures. *Estimates on application.*		
	Treasurer's Bond - - - - - - - - -	0	6
11	**Direction of Sanitary Authority** to Medical Officer of Health to inspect and examine Animals, Food, &c. - *per quire*	3	0
11*b*	**Contract for Works** - - - - - - - - *each*	1	0
	Seal of Sanitary Authority, specially prepared. *Sketches and Specimens free on application.*		
	Ordnance Survey Maps of Town, Village, Parish, &c.		

Medical Officers' Books and Forms.

12	**Medical Officers' Book of Applications**, Proceedings, &c.	7	6
13	**Medical Officers' Visitation Report Book** - - -	8	0
14	**Direction** of Medical Officer of Health as to Seizure of Diseased Animals, Unsound or Unwholesome Food, &c. *per quire*	3	0
E	**Dangerous Infectious Diseases** (Notice of) from Poor Law Medical Officer to the Medical Officer of Health, or to the Inspector of Nuisances, in books with counterpart, *book of* 50	2	6
F	**Register of Deaths and Diseases** for use of Medical Officer of Health, in books, with Index of Diseases at beginning. Prepared by Dr. Robinson, Medical Officer of Health for the Combined Sanitary Authorities of East Kent - -	27	6

Rural Sanitary Authorities.

No.		s.	d.
G	**Tabular Form of Deaths and Diseases,** shewing at a glance the Deaths and Diseases in one year. Prepared by Dr. Robinson. *per quire*	15	0
H	Do. „ in book, for reference. 1 *quire*	30	0
J	**Tabular Form of Deaths and Diseases,** shewing at a glance the Deaths and Diseases in each week and each quarter. Prepared by Dr. Robinson. *per quire*	15	0
K	Do. „ in book, for reference. 1 *quire*	30	0
L	**Spring-back Portfolios,** Foolscap, for Medical Officer of Health to hold Returns of Deaths - - - - - -	3	6
N	**Quarterly Return** by Medical Officer to Local Government Board of Sickness and Death - - - - *per quire*	4	0

Inspectors' Books and Forms.

15	**Form of Contract** between Sanitary Authority and Inspector of Nuisances - - - - - - - - *each*	0	6
16	**Inspectors' Report Book** - - - 1 *quire, half-bound*	10	0
	Do. „ - - - 2 *quires, half-bound*	12	6
	Do. „ *in loose sheets for reports, per quire*	4	0
17	**Inspectors' Journal** of Visits and Continuous Record - -	10	6
17*a*	**Pocket Memorandum** Book and Journal - - - -	3	6
18	**Inspectors' Return** of Nuisances Book - - - -	8	0
19	**Inspectors' Presentment** Book of Complaints - - -	14	0
L	**Return of Proceedings** under Nuisances Removal Act - -		
M	**Inspectors' Sanitary Survey,** compiled by Dr. Robinson, Medical Officer of Health for the Combined Sanitary Authorities of East Kent - - - - - *in books of 2½ quires*	14	6
M*a*	Do. „ - - *in loose sheets, per quire*	4	0
21	**Report as to Noxious Trades,** or Breach or Non-observance of Bye-Laws as to the same - - - - *per quire*	3	0
22	**Report** to Medical Officer of Houses where Sickness prevails or Sudden Death occurs - - - *in books of* 50 *each*	3	0
23	**Report** to Medical Officer of a **Trade Nuisance** injurious to health - - - - - - - *in books of* 50 *each*	3	0
23*a*	**Notice to Medical Officer** as to existence of Nuisance or Over-crowding - - - - - *in books of* 50	3	0

Rural Sanitary Authorities.

No.		s.	d.
24	**Report** to Medical Officer of **Overcrowding Houses**, *in books of* 50 *each*	4	0
24*a*	Do. „ of suspected **Water Pollution** „	4	0
25	**Certificate of Analyst** as to Adulterated Articles of Food, *per quire*	3	0
26	**Order of Sanitary Authority** to Disinfect House - -	3	0
27	Do. „ to Remove Person suffering from Infectious Disease - - - - - - - - -	3	0
A 3	**Notice of Nuisance** to Owner or Occupier by Inspector of Nuisances - - - - - - - - *per quire*	3	0

Registrars' Forms.

A.	**Weekly Return of Deaths** from Registrar of Births and Deaths to Medical Officer of Health, with Divisions as in Burial Register, *in books with counterpart* - - - - -	4	6
AA.	Do. „ without Divisions -	4	6
B.	**Immediate Form of Notice** from Registrar of Births and Deaths to Medical Officer of Health, of Death from *Infectious Disease, in books with counterpart* - - -	3	0
A. 1	**Registrar's Nil Return** to Medical Officer, *in books of* 50 *each*	2	6

Special Expenses, Rate Books, &c.

(FOR RURAL AUTHORITY ONLY.)

28	**Rate Receipt Book**—		
	100 - - - - - - - - - - -	1	0
	200 - - - - - - - - - - -	2	0
	300 - - - - - - - - - - -	3	0
29	**Sanitary Rate Book**, 15 lines on a page—		
	13 by 7½ inches, Half-bound - - 1 qr., 650 names	4	6
	Do. „ - - 2 qrs., 1,330 „	6	0
	Do. „ - - 2½ qrs., 1,670 „	8	6
	Do. „ - - 3 qrs., 2,000 „	10	0

Public Health Act Books and Forms.

No.		s.	d.
29	**Sanitary Rate Book**, 36 lines on a page—		
	13 by 15 inches, Half-bound - - 1 qr., 1,575 *names*	10	0
	Do. ,, - - 2 qrs., 3,650 ,,	14	0
	Do. ,, - - 3 qrs., 5,000 ,,	18	0
30	**Notice of allowance** of Sanitary Rate for Special Expenses, *books*	3	0
31	**Collecting and Deposit Book** - - - - 1 *quire*	4	0
	Do. ,, - - - - - 2 *quires*	6	0
	Do. ,, - - - - - 3 *quires*	7	6
32	**Collectors' Monthly Statement** - *in bks.*, 1 *quire each*	6	0
	Do. ,, - - ,, 2 *quires each*	9	0
	,, ,, - - - *in quires, per quire*	3	0
33	,, **Receipt and Payment Book** - - - -	6	0

FORMS FOR CARRYING OUT

THE PUBLIC HEALTH ACTS.

The following Forms, with few exceptions, 3*s. per quire.*

Sewerage and Drainage.

57 Sect. 16.—Notice to Owner or Occupier of intention to carry Sewer into, through, or under private Land, &c.

58 ,, 21.—Notice of Intention to Drain into Sewer of Local Authority

59 ,, 23.—Notice to Owner or Occupier to make a Covered Drain.

60 ,, 24.—Notice of closing old Drain and providing new (by Local Authority).

60*a* ,, 26.—Consent of Authority to Erection of Building over Sewer, &c.

26*b* Do. to Constructing Vault, &c., under Carriageway.

61 ,, 26.—Notice by URBAN Authority of new Building over or under Sewer.

26*d* Notice as to Cellar, &c., constructed under Carriageway.

Complaint, Summons, Conviction, and Order for Recovery of Expenses, see Forms under Sects. 251, 257.

Sewage Works without Districts.

62 Sect. 32.—Notice to Owners, &c., of intended Sewage Works.

63 Notice of Objection by Owner.

22*a* Agreement for Drainage of Premises without the District.

No.

23*a* Notice to drain house into Sewer or Cesspool.

23*b* Do., in books with counterpart.

23 Order declaring Expenses to be Private Improvement Expenses *see* Sec. 213.

23 Notice of Apportionment of Expenses, *see* Sec. 257.

25*a* Notice to drain new house into Sewer or Cesspool.

25*b* Do., in books with counterpart.

34*a* Application to Local Government Board for appointment of Inspector.

Recovery of Expenses, *see* Forms 202—206.

Privies, Waterclosets, &c.

64 Sect. 35.—Information for building House without Privy, Ashpit, &c.

65 Summons.

66 Conviction.

66*a* Report of Surveyor of House being without a Privy, &c.

67 ,, 36.—Notice to provide House with Privy, Watercloset, &c.

68 ,, 38.—Notice to provide Factory with separate Waterclosets for each Sex.

69 ,, 41.—Application to Local Authority for examination of Drain, Watercloset, &c., supposed to be a nuisance.

70 Notice by Local Authority to Occupier of intended entry to examine Drain, &c.

71 Authority to Surveyor or Inspector to enter premises and inspect.

72 Notice to Owner or Occupier to repair Drain, &c.

Recovery of Expenses, &c., *see* Forms 202—206.

Scavenging and Cleansing.

REGULATIONS AS TO STREETS AND HOUSES.

42*a* Contract for Removal of House Refuse, Cleansing of Earth-closets, &c.

42*b* Contract for Cleansing Streets.

42*c* Contract for Watering Streets.

73 Sect. 43.—Notice to Local Authority to remove House Refuse.

No.

74 Sect. 46.—Certificate of Medical Officer of House being in unwholesome condition.

75 Notice to Cleanse, Disinfect or Purify House.

76 „ 47.—Notice by Urban Authority to remove Pigs, &c.

77 Do. „ to remove Stagnant Water.

78 Do. „ to abate Nuisance from Overflow of Water-closet, Privy, &c.

Offensive Ditches.

79 Sect. 48.—Information for Foul Ditch.

79*a* Summons for ditto.

80 Order of Justices to cleanse Ditch.

81 „ 49.—Notice of Accumulation of Manure by Inspector of Nuisances (Urban).

82 „ 50.—Notice of Periodical Removal of Manure (Urban).

Recovery of Expenses, &c., *see* Forms 202—206.

Water Supply.

84 Sect. 52.—Notice to Water Company of Water required.

53*a* Application to Local Government Board for permission to construct Reservoir.

„ 54.—Notice to Owner or Occupier of intention to carry Water-main through Premises, Land, &c.

54*b* Notice of Intention to carry Watermain through Lands without the District,

54*c* Application to Local Government Board, as under sect. 34.

56*a* Agreement for Supply of Water.

85*a* „ 57.—Notice of wasting Water supplied by Local Authority.

57*a* Notice of Intention to Break up Street (10 Vict. c. 17, s. 30), Rural only.

57*b* Demand for Payment of Cost of Communication Pipes, &c., (Id., s. 46).

57*c* Notice of Intention to Lay Service Pipe (Id., s. 48).

57*d* Notice to make Communication with Watermain (Id., s. 49).

57*e* Notice to Remove Service Pipe, &c. (Id., s. 51).

86 „ 58.—Agreement to supply Water, by measure or otherwise.

87 „ 62.—Report of Surveyor—House without proper Water Supply.

88 Notice to Owner to obtain Water Supply in specified time where such supply can be furnished at a cost not exceeding twopence a week.

No.

62*e* Contract with Water Company to supply Water.
Complaint, Summons, and Order for Recovery of Expenses *see Forms under Sec.* 257.
Order declaring Expenses to be Private Improvement Expenses *see Sec.* 213.

Public Health (Water) Act, 1878.

41 & 42 Vict. c. 25.

87*a* Sect. 3.—Report of Officer of Sanitary Authority of Dwelling-House without a supply of Water.

88*a* Notice (form A. in Act) requiring Owner to provide a supply of Water for an occupied House.

88*b* Second Notice (form B. in Act), to be served where requirements of first Notice have not been complied with.

88*c* Notice of application to Justices for an Order to enter to execute Works.

88*d* Notice withdrawing or modifying previous Notice.

88*e* „ 4.—Memorial to Sanitary Authority, stating objections of Owner.

88*f* Application to Justices for an Order authorizing Authority to proceed with Works.

88*g* Summons of Owner.

88*h* Order.

88*i* „ 5.—Notice of apportionment of Costs of Water Supply.

88*k* „ 6.—Certificate of Sanitary Authority of sufficient Water Supply.
Do. do. *in books of* 50 *each*, 4*s.* 6*d.*

88*l* „ 7 and sections 102 and 103 Public Health Act.—Notice of application to Justices for an Order to enter for purposes of Inspection with regard to Water supply.

88*m* „ 6.—Information for occupying House without Certificate.

88*n* Summons.

88*o* Order.

88*p* Water Rent Book.

Pollution of Water in Wells, &c.

89 Sect. 70.—Representation, &c., to Local Authority as to Polluted Wells

90 Complaint by Local Authority to Justice of the Peace as to Polluted Wells.

91 Summons.

92 Order.

70*e* Summons to show cause why Authority should not be empowered to carry out Order.

No
70*f* Complaint for Non-compliance with Order.

70*g* Order authorizing Authority to carry out Order.

Complaint, Summons, and Order for Recovery of Expenses, *see Forms under Secs.* 251, 257.

Recovery of Expenses, *see Forms* 202 *to* 206.

Common Lodging Houses.

93 Sect. 76.—Register of Common Lodging Houses, 1 *quire*, 10*s.*; 2 *quires*, 16*s.*

94 Room Ticket.

95 Notice to Register.

95*a* Application for Registry.

95*b* Report of Inspector thereon.

95*c* Notice of House being Registered.

96 ,, 78.—Certificate of Registry.

97 Notice to reduce number of Lodgers.

97*a* Weekly return of ditto.

98 ,, 81.—Notice to Keeper of Lodging House to obtain proper supply of Water.

99 ,, 83.—Order to report every Person who resorted to Lodging House previous night.

100 Schedules for such Report.

101 ,, 84.—Notice to Medical Officer of Fever in Common Lodging House.

102 Notice to Relieving Officer of ditto.

103 ,, 86 and 88.—Information for keeping Lodgers in Unregistered House.

105 Summons.

106 Conviction.

Nuisances.

106½ Sect. 93.—Information to Local Authority of existence of Nuisance.

106 A Notice to abate Nuisance (General Form—Form A. in Act)

107 A Sects. 91 and 94.—Notice to abate Nuisance. Premises in condition Injurious to Health. This and the following Forms to 113A are variations of Form A. in Act.

108 A Foul Pool, Ditch, Gutter, Watercourse.

109 A ,, Animal kept so as to be a Nuisance.

110 A ,, Accumulation or Deposit which is a Nuisance.

111 A ,, Over-crowding.

112 A Sects. 91 and 94.—Factory, Workshop or Workplace not kept in cleanly state, so as to be injurious to Health.

113 A ,, From Smoke.

114 Sect. 93.—Notice to Local Authority of Nuisance for want of Privy, Drain, &c., by Officer of Authority.

No.	
115	Notice to Local Authority of Dilapidated and Filthy House, by ditto.
116	Do. „ Foul Drain, Accumulation, by ditto.
117	Notice of Nuisance for want of Privy, Drain, &c., by parties aggrieved.
118	Do. Dilapidated Houses, by ditto. (B 5.)
119	Do. Foul Drain, Accumulation, by ditto.
120	Sect. 95.—Complaint of existing Nuisance.
121 B	Summons (Form B. in Act).
122 C	Order of Justices to abate Nuisance (Form C. in Act), and for Penalties.
123	Complaint where Nuisance is likely to recur.
123 B	Summons, ditto. (Form B. in Act).
123 C	Order, Nuisance likely to recur (Form C.)
124 C	Do. Where Nuisance is Removed before Complaint (Form C.)
125 D	Order of Justices upon Local Authority to abate Nuisance (Form D. in Act.)
126 D	Do. with Prohibition where Nuisance is likely to recur.
127	„ 105.—Complaint to Justice of Nuisance by party aggrieved.

Offensive Trades.

128	Sect. 114.—Certificate as to Nuisance from Offensive Trade by Medical Officer of Health, &c., to Urban Authority.

Unsound Meat.

129	Sect. 116.—Information by Medical Officer or Inspectors as to Unwholesome Food.
130	„ 117.—Order of Justices after summons in reference to Unwholesome Food.
130 A	Order to Destroy Unwholesome Food without Summons.
131	„ 119.—Complaint to obtain a Search Warrant.
132	Search Warrant.

Infectious Diseases and Hospitals.

133	Sect. 120.—Certificate of Medical Officer as to Cleansing and Disinfecting.
134	Notice to Cleanse and Disinfect.
135	„ 124.—Certificate of Person suffering from Infectious Disorder by Medical Practitioners.
136	„ Order of Justices to remove Persons suffering from Infectious Disorder.
137	Do. by Local Authority.
138	„ 128.—Certificate of Medical Officer that Premises have been properly Disinfected.

Mortuaries.

(DEATHS FROM INFECTIOUS DISEASES, &c.)

No.

139 Sect. 142.—Certificate of Medical Officer of Death from Infectious Disease.

140 Order of Justices to remove Dead Body and bury the same.

Highways.

141 Sect. 146.—Agreement by Urban Authority with Person to make Road at expense of such Person, such Road, on completion, to be repairable by Inhabitants.

142 „ 147.—Ditto ditto to construct Bridge.

Regulations of Streets and Buildings.

143 Sect. 150.—Notice to Owner or Occupier to Sewer, Level, Pave, &c. Private Street (Urban) (Form G. in Sched.).

144 „ 152.—Notice declaring Street to be Highway (Urban).

145 „ 153.—Notice to raise, sink or alter Pipes, &c. (Urban).

Lighting Streets (Urban).

146 Sect. 161.—Contract for supplying Gas, Lighting, &c.

Slaughter Houses (Urban).

147 Sect. 170.—Register of Slaughter Houses Registered.

148 Do. „ Licensed.

149 Notice of Non-Registration.

150 Certificate of Registry.

151 Slaughter House License.

152 Notice to Occupier to repair Slaughter House

153 Do. to Cleanse.

Contracts.

156 Sect. 173.—Contract and Bond for supply of Goods, *per quire*, 8*s*.

157 Contract for Works, *per quire*, 14*s*.

174*a* Do. do. with Bond, Urban only.

174*b* Contract for Works, without Bond (concise form) for amounts under £100, Urban only.

174*c* Do. Goods, with Bond, Urban only.

158 Sect. 174.—Tender for Works, Notice of.

Purchase of Lands.

No.

159 Sect. 176.—Notice to Owner or Occupier of intention to Purchase Land.
160 Petition to Local Government Board concerning Land intended to be taken.
176*b* Answer in blank to be enclosed with Notice.
176*d* Statutory Declaration to accompany Petition.
176*e* Book of Reference.

Arbitration.

161 Sect. 180.—Appointment of Arbitrator (sub-sect. 1).
162 Notice of Appointment of Arbitrator (sub-sect. 4).
163 Appointment of Umpire (sub-sect. 7).
164 Declaration of Arbitration (sub-sect. 10).

Appointment of Officers of Local Authority.

OFFICERS OF URBAN AUTHORITY.

165 Sect. 189.—Medical Officer's Contract.
166 Surveyor's Appointment and Bond.
167 Inspector of Nuisances' Appointment and Contract.
168 „ 187.—Clerk's Appointment.
169 Treasurer's Bond.
170 Collector's Bond.

OFFICERS OF RURAL SANITARY AUTHORITY.

171 Sect. 190.—Medical Officer's Contract.
172 Surveyor's Appointment and Bond.
173 Inspector of Nuisances' Appointment and Contract.
174 Clerk's Appointment.
175 Treasurer's Bond.
176 Collector's Bond.

Borrowing Powers.

178 Sect. 236.—Mortgage of Rates (Form H. in Act), parchment.
179 „ 237.—Register of Mortgages.
180 „ 238.—Register of Transfer of Mortgages.
Transfer of Mortgage (Form I. in Act).
181 „ 240.—Form of Grant of Rentcharge (Form K. in Act).
182 „ 241.—Register of Rentcharges.

Audit of Accounts.

No.
183 Sect. 247.—Notice of Audit (Sub-sect. 3).

Recovery of Rates.

184 Sect. 256.—Information for non-payment of Rates.
184*a* Do. do. for several Ratepayers.
185 Summons.
186 Order for Payment.
187 Warrant of Distress.
187*a* List of Persons whose Rates have been excused.

Appeal.

188 Sect. 268.—Form of Appeal to the Local Government Board.
189 „ 269.—Notice of Appeal to Quarter Sessions.
Recognizance of Appeal.

Alteration of Areas.

190 Sect. 276.—Application to Local Government Board by Rural Sanitary Authority for powers of Urban Sanitary Authority.
191 „ 279.—Application to Local Government Board to be formed into a United District.

Prosecution of Offences and Recovery of Expenses, Penalties, &c.

192 Sects. 102 and 305.—Notice to Owner or Occupier of Application to Justices for an order to enter premises.
193 Application to Justices for order to enter premises.
194 Order of Justices to enter (Form F. in Act).
195 Notice of entry upon lands.
196 „ 306.—Information for obstructing any person employed in the execution of the Act.
197 Summons.
198 Conviction.
199 Complaint by Owner of Occupier Obstructing the execution of Works.
200 Summons.

SHAW & SONS, Printers and Publishers,

No.

201 Sect. 306.—Order of justices to owner. (Form E. in Act).

202 Information to recover costs, expenses, or penalties. *See* 122 C.

203 Summons.

204 Order for payment.

205 Warrant of distress.

206 Warrant of commitment.

207 „ 307.—Information for damaging works or property of local authority.

208 Summons.

209 Conviction.

Adulteration of Food and Drugs Act.

38 & 39 Vict. c. 63, and 42 & 43 Vict. c. 30.

A. Information for selling article of food or drug not of the proper nature substance, and quality, *per quire*

B. Summons.

C. Conviction.

D. Warrant of distress.

E. Information for selling compound, article of food, or drug, not composed of ingredients demanded.

F. Summons.

G. Conviction.

Petroleum Act.

34 & 35 Vict. c. 105, and 44 & 45 Vict. c. 67, ss. 2, 7.

1*a* Application for a license.

1 License by town council.

2 Do. by local authority.

3 Register of licenses, 1 *quire*, 7*s.* 6*d.*, 2 *quires*, 10*s.*

Electric Lighting Act.

3 Application for license.

3*b* Certificate of resolution of local authority.

4 Application for provisional order.

Forms under Towns Police Clauses Act.

210 Notice of sale of stray cattle.

211 Licenses for hackney carriages.

212 Requisition for same.

No.

213 Register of Hackney Carriage Licenses, half-bd.

214 Register Book of Driver's Licenses.

215 License of Driver of Hackney Carriage.

216 Duplicate of ditto.

Driver's Badges.

Hackney Carriage Number and Fare Plates.

Forms under Towns Improvement Clauses Act.

217 Notice to Number Houses.

218 Notice to Remove Projections.

219 Notice to put up Water-spout.

220 Notice of Ruinous Buildings.

221 Notice of intention to take the Site of Buildings.

222 Notice to remove Hoarding.

223 License for Slaughter-house.

224 Notice to remedy or discontinue use of Fireplace or Furnace not consuming Smoke.

Precautions against Cholera.

Intended for universal circulation.

Large Placard.—To be posted on all conspicuous places, containing valuable advice and instructions to prevent the spreading of Cholera. Drawn at the request of the Publishers, by Shirley F. Murphy, M.R.C.S., Medical Officer of Health for St. Pancras. Price per 100, 6*s.*; 500, 24*s.*; 1,000, 40*s.*

Hand Bill.—To be distributed freely amongst all householders. Prepared by Shirley F. Murphy, M.R.C.S., Medical Officer of Health for St. Pancras. Price per 1,000, 7*s.* 6*d.*

Both the above may be had mounted on cardboard for hanging up.

Memorandum of the Local Government Board—Dated July, 1884. Price, 50, 2*s.* 6*d.*; 100, 5*s.*; 250, 10*s.* 6*d.*; 500, 18*s.* 6*d.*; 1,000, 30*s.*

Dwellings of the London Poor.

Forms under the Circular Letter of the Local Government Board, dated 29th December, 1883, declaring that the enactments in the Sanitary Act, 1866, sec. 35, and the Sanitary Law Amendment Act, 1874, sec. 47, are now to be in force.

No.	
1	Regulations with respect to Houses Let in Lodgings or Occupied by Members of more than one Family. (Printed to order).
2	Notice to Landlord of House Let or Occupied in Lodgings to Register, 3*s.* *per quire.*
3	Statement of Landlord as to Particulars of House Let in Lodgings, 3*s.* *per quire.*
4	Register of Lodging-house.
6	Certificate of Registration and Notice Fixing the number of Persons who may occupy a House or part of a House which is let in Lodgings or Occupied by Members of more than one Family, 3*s.* *per quire.*
7	Report of Inspector of Nuisances, 4*s.* *per quire.*
8	Notice to abate Nuisance, Cleanse, Limewhite, &c., 3*s.* *per quire.*

FORMS REQUIRED UNDER THE

PUBLIC HEALTH (INTERMENTS) ACT, 1879.

			s.	d.
Minute Book,	Foolscap, with Index		25	0
Register of Fees Received and Paid		2 *quires*	16	0
Do.	,,	4 ,,	25	0
Register of Graves,	800 Grave spaces		21	0
Do.	1,600 ,,		27	6
Do.	2,400 ,,		34	0
Do.	3,200 ,,		40	0
Do.	4,000 ,,		48	0
Register of Purchased Graves,	same size and price as above.			
Register of Burials,	1,000 Names		21	0
Do.	2,000 ,,		27	6
Do.	3,000 ,,		35	0
Copies of Register of Burials,	on parchment, per sheet		1	6
Index Book to Registers			18	0
Certificates of Burial,	in books of 50		3	6
Books of Receipts for Fees Paid,	with Counterfoil		4	6
Form of Grant of Exclusive Right of Burial,	on parchment, with duplicate, each		1	0
Do.	do.	in books of 50, with duplicates, printed with name of authority, &c., on parchment, bound extra strong	42	0
Do.	do.	*in books of* 100	73	6
Notice to Authority of Intended Interment		100	6	0
Do.	with name of authority printed in	250	12	6
Notice to Clergyman to attend Funeral		100	2	0
Notice to Sexton to Prepare Grave			2	6

SHAW & SONS, Printers and Publishers,

LIST OF FORMS, &c.,

REQUIRED UNDER

THE CANAL BOATS ACT, 1877

Circular of Local Government Board relating to Canal Boat Act, price 1*s.* 6*d.* each. In quantities of 12 or upwards, 1*s.* each.

No.			*s.*	*d.*
1	Application to Register Boats - - -	*per quire*	3	0
2	Report of Inspector. Form A. in Order -	„	3	0
3	Register of Canal Boats. Form B. in Order -	*per book*	10	0
4	Certificate of Registration - - -	*in books of* 50	5	0
5	Notice of Disease on Canal Boat - - -	*per quire*	3	0
6	Medical Officer's Certificate that Canal Boat has been Cleansed and Disinfected - -	„	3	0

CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

Forms prescribed by the Privy Council.

PART I.—

1 Report to Privy Council as to proceedings of Local Authority on Outbreaks of Pleuro-Pneumonia, Foot-and-Mouth Disease, Sheep-Pox, and Swine-Fever.

PART II.—*Forms for use by an Inspector.* 3*s. per quire.*

1 Declaration of Disease.
2 Notice of Declaration to Occupier in Cattle Plague.
3 Do. do. Pleuro-Pneumonia.
4 Do. do. Foot-and-Mouth Disease.
5 Do. do. Sheep-Pox.
6 Do. do. Swine-Fever.
7 Do. to Adjoining Occupier in Cattle Plague.
8 Do. to Adjoining Occupier of Contiguous Lands in Foot-and-Mouth Disease.

PART III.—*Movement License Forms in connexion with Pleuro-Pneumonia Infected Places and Areas.*

		s.	d.
	Books of Movement Licenses of 50 *each* - - - - -	4	6
A.	Declaration of Owner of Cattle or his Agent - - *per quire*	3	0
B.	Declaration of Occupier of Farm or Premises or his Agent *per quire*	3	0
C.	Movement of Cattle out of a Pleuro-Pneumonia Infected Place to a Slaughter-house. With Indorsement, E. - *per book of* 50		
D.	Movement of Cattle out of Pleuro-Pneumonia Infected Place for purposes of Feeding, or other ordinary purposes connected with the Breeding of Cattle, or for the purpose of isolation. With Indorsement, E. *per book of* 50		
F.	Movement of Fat Cattle from a Licensed Market, Fair, or other Public Sale or Exhibition, held in a Pleuro-Pneumonia Infected Area to a Slaughter-house. With Indorsement, G. - *per book of* 50		
H.	Movement of Fat or Store Cattle from a Sale authorized to be held in a Pleuro-Pneumonia Infected Area without a License. With Indorsement, J. - - - - - - - *per book of* 50		
K.	Pleuro-Pneumonia Occcupation Movement License. With Indorsement, L. - - - - - - - *per book of* 50		
M.	Movement of Cattle into a Pleuro-Pneumonia Infected Area. With Indorsement, N. - - - - - - *per book of* 50		
O.	Movement of Cattle in Pleuro-Pneumonia Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, R. - - - - - - - *per book of* 50		
P.	Movement of Cattle into one out of another Pleuro-Pneumonia Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, R. - - - - - *per book of* 50		
Q.	Movement of Cattle out of a Pleuro-Pneumonia Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, R. - - - - - - - *per book of* 50		

PART IV.—*Movement License Forms in connexion with Foot-and-Mouth Disease Infected Places and Areas.*

		s.	d.
	Books of Movement Licenses of 50 *each* - - - - -	4	6
T.	Declaration of Occupier of Farm or Premises, or his Agent *per quire*	3	0
U.	Movement of Animals out of a Foot-and-Mouth Disease Infected Place to a Slaughter-house. With Indorsement, W.		
V.	Movement of Animals out of Foot-and-Mouth Disease Infected Place for purposes of Feeding or other ordinary purposes connected with the Breeding of Animals, or for the purpose of Isolation. With Indorsement, W.		

SHAW & SONS, Lithographers and Stationers,

X. Movement of Fat Animals from a Licensed Market, Fair, or other Public Sale or Exhibition, held in a Foot-and-Mouth Disease Infected Area, to a Slaughter-house. With Indorsement, Y.

Z. Movement of Fat or Store Animals from a Sale authorized to be held in a Foot-and-Mouth Disease Infected Area without a License. With Indorsement, AA.

BB. Foot-and-Mouth Disease Occupation Movement License. With Indorsement, CC.

DD. Movement of Animals into a Foot-and-Mouth Disease Infected Area. With Indorsement, EE.

FF. Movement of Animals in Foot-and-Mouth Disease Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, JJ.

HH. Movement of Animals out of a Foot-and-Mouth Disease Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, JJ.

PART V.—*Movement License Forms in connexion with Swine-Fever Infected Places and Areas.*

Books of 50 forms *in each* - - - - - - - - 4 6

LL. Declaration of Occupier of Farm or Premises or his Agent *per quire* 3 0

MM. Movement of Swine out of a Swine-Fever Infected Place to a Slaughter-house. With Indorsement, NN.

OO. Movement of Fat Swine from a Licensed Market, Fair, or other Public Sale or Exhibition, held in a Swine-Fever Infected Area to a Slaughter-house. With Indorsement, PP.

QQ. Movement of Fat or Store Swine from a Sale authorized to be held in a Swine-Fever Infected Area to a Slaughter-house. With Indorsement RR.

SS. Swine-Fever Occupation Movement License. With Indorsement, TT.

UU. Movement of Swine into a Swine-Fever Infected Area. With Indorsement, VV.

WW. Movement of Swine in Swine-Fever Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, ZZ.

XX. Movement of Swine into one out of another Swine-Fever Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, ZZ.

YY. Movement of Swine out of a Swine-Fever Infected Area from a place other than a Market, Fair, Exhibition, or Sale. With Indorsement, ZZ.

PART VI.—*Inspectors' Movement License Forms to be used in connexion with Animals, Horses, Asses, and Mules seized by them in Market, &c., or during transit.*

BBB. Movement to a Slaughter-house of Animals seized as having been found affected with Foot-and-Mouth Disease in a Market, Railway Station, Grazing Park, or other like place, or during Transit.

CCC. Movement to a Slaughter-house of Swine seized as having been found affected with Swine-Fever in Market, Railway Station, Grazing Park, or other like place, or during Transit.

DDD. Movement to a Slaughter-house, or Horse Slaughterer's or Knacker's Yard of Infected Animals, Horses, Asses, or Mules that have been seized in consequence of being illegally moved or exposed.

FORM OF RECORD.—PART I., in Books, half-bound - - - 10*s.* 6*d.*

FORM OF RECORD.—PART II. ditto - - - - 10*s.* 6*d.*

Magisterial Forms.

Price 3s. per quire.

13 Information for Offence under the Contagious Diseases (Animals) Act, sects. 60 and 63.

14 Summons.

15 Conviction.

16 „ (Imprisonment).

Dairies, Cowsheds, and Milkshops Order,

Dated 4th February, 1878.

1	Public Notice of Time when Register of Dairies, &c., will be Open (Placard) - - - - - - - - *per quire.*	5	0
2	Do. do. in Circular Form, *per quire*	4	0
3	Application by Dairyman, &c., to Register - - - *per quire*	3	0
4	Register of Cowkeepers, Dairymen, and Purveyors of Milk, under the above Order, 1 quire half-bound - - - - - - -	7	6
	Do. 2 quires half-bound - - - - - -	10	6
5	Certificate of Registration - - - - - - *per quire*	3	0

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LIST OF NEW ACCOUNT BOOKS FOR

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PRATT'S LAW OF HIGHWAYS, comprising the Highway Acts, 1835, 1862, 1864, the South Wales Highway Acts, and other Statutes, including an Introduction Explanatory of the Law upon the Subject; with Notes, Cases, and Index; also, The Tramways Act, 1870. Twelfth Edition. By S. PRENTICE, Esq., Q.C. Price 20*s.*

EXEMPLIFICATION OF HIGHWAY BOARD ACCOUNTS, in accordance with the General Order for Accounts issued by the Local Government Board, dated 29th April, 1879. By H. LLOYD-ROBERTS. Esq., Barrister-at-Law, and Local Government Board Auditor, Price 8*s.*

Clerks' Books.

No.		*s.*	*d.*
1	Minute Book. Hand-made Demy, first quality, 5 *quires, rough calf* - - - - - - - - - -	28	0
1*a*	Do. Foolscap - - - 5 *quires, rough calf*	21	0
1*b*	Rough Minute Book - - - 3 „ *half-bound*	8	6
2	Ledger (Form A.) Hand-made Demy, 5 *quires, full rough calf*	30	0
2*a*	Rough Ledger - - - 2 „ *half-bound*	9	6
3	Parochial Ledger (Form A), Hand-made Demy, 5 *quires, rough calf* - - - - - - - - - -	26	0
4	Order Check Book (Form B.) - - *in books of* 100 *each*	4	0
5	Petty Cash Book - - - - - - - - -	6	0
6	Cheque Book on Treasurer, with name of board printed in to order from Engraved Plates - 10 *books of* 100 *each*	40	0
	Ditto, when the plate is already engraved - - *small size*	30	0
	„ „ „ *medium size*	33	6
	„ „ „ *large size*	37	6
3	Requisition for an Extraordinary Meeting of Board - -		

No.		s.	d.
4	Notice to the Members of Meeting of Highway Board *per* 250		
11*a*	Precept upon Waywarden - - - *books of* 50 *each*	4	6
	Do. Overseers - - - „	4	6
	Treasurers' Books.		
6*a*	Treasurers' Bond - - - - - - - - -		
7	Treasurers' Receipt and Payment Books (Form C.) foolscap folio - - - - - - - -	8	0
8	Treasurers' Pass Book - - - - - - - -	3	6
	District Surveyor.		
9	Cash Book (Form D.) *Half bound* - - - - -	14	0
10	Petty Cash Book „ - - - - -	6	0
11	Contract Book (Form E.) „ - - - - - - -	7	6
12	Wages Book (Form F.), for Weekly Payments, *half bound* 2 *quires*	12	6
	Do. „ „ - *limp*, 1 *quire*	7	0
	Do. „ „ - ½ „	4	6
	Do. „ „ - *cloth*, 16 *leaves*	2	0
12*a*	Wages Book for Fortnightly Payments, foolscap folio, 1 quire - - - - - - - - - -	7	0
	A separate Wages Book is required for each parish. See Circular Letter of Local Government Board.		
13	Receipt Cheque Book (Form G.) - - 100 *leaves*	2	0
14	Stock and Stores Account (Form H.) - - - -	10	0
	Financial Statements.		
15	Financial Statement (Form I.) - - - - *per quire*	5	0
15a	Do. in books - - - - - - - 2 *quires*	12	0
16	Loan Account (Form K.) - - - - - *per quire*	5	0
16a	Do. - - - - - - - *in books*, 2 *quires*	12	0
17	Parochial Statement (Form L.), sufficient for 25 Parishes, *per quire*	4	0
	Do. sufficient for 60 Parishes - - *per quire*	6	0
17a	Do. - - - - - - *in books*, 2 *quires*	12	0
18	Clerks' Notice of Audit - - - - - *per quire*	2	0

Appointments and Bonds

Under Acts of 1862 and 1864.

No.

18*a* District Surveyor's appointment

29*a* District Surveyor's bond

25*a* Notice from Clerk of Highway Board to churchwardens to appoint waywarden, with form of return annexed

26*a* Appointment of waywarden by justices

26*b* Notice to waywarden elected

27*a* Clerk's appointment by board

Contribution, Highway Acts, 1862 & 1864.

22*a* Complaint of Chairman against Overseers for non-payment of Contribution Order

23*a* Summons

24*a* Order to pay Contribution, and if not paid to be levied by distress, and in default of distress, imprisonment.

37*a* Notice to District Board of intended Application for Contribution (26 & 27 Vict. c. 94).

38*a* Information by Clerk or Treasurer

39*a* Order of Justices

40*a* License to Waywarden to Contract for the Supply or Cartage of Materials

Highway Rates—Application of to Turnpike Roads.—4 & 5 Vict. c. 59.

1 Notice to Surveyor of Highways of intended Application for a portion of Highway Rate

2 Information by Clerk or Treasurer for such portion

3 Order for the same by Justices

3*a* Order upon Highway Board for a portion of Highway Rates

4 Notice to Justices of Intention to Appeal

Cattle Straying on Highway—Highway Acts, 1862, 1864.

41*a* Information

42*a* Summons

43*a* Conviction

Ditto on Parchment

Encroaching on Highway.

No.
44*a* Information
45*a* Summons
46*a* Conviction

Rates, Distraining for.—12 Vict. c. 14—27 & 28 Vict. c. 101.

1 Complaint of the surveyors against one ratepayer
2 Complaint of the surveyors against several ratepayers
3 Summons
4 Warrant of distress against one ratepayer
5 Warrant of distress against several ratepayers
6 Warrant of commitment in default of distress
99** Excused list, being the order of excusal from rates on the ground of poverty
24 Justices' order on the above summons

Repair.—5 & 6 Will. 4, c. 50.

17 Justices' award for recompense to proprietor and occupier of grounds occupied while adjoining road is under repair, s. 25
28 Notice of two ratepayers requiring surveyor to call a meeting to divide among the ratepayers the carrying of the material for repair of highways, s. 35
29 Notice of surveyor for that purpose
30 Order of justices fixing rate of charges for carrying same
31 Notice of surveyor to carry materials
37 Consent of justices to sell lands allotted for repair of highways, s. 48, and 8 & 9 Vict. c. 71
38* Information against owner of lands refusing his consent to allow stones to be gathered, s. 51
39 Summons of owner by justice on refusal
40 License of justices
41 Notice of surveyor to owner and occupier of inclosed ground to appear before two justices to show cause why materials should not be had therefrom, s. 53
42 Justices' authority thereon
43 Application from a surveyor to justices for a license to get materials for the repair of the highways in another parish, s. 54
44 License from justices thereon
77 Notice of holding of vestry for the appointment of a board for the repair of the highways, s. 18
82 License from justices to surveyor to let to hire team, &c., to be used in repairing highways, s. 46

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No.

83 Information for non-repair, s. 94

84 Summons

85 Appointment of person to view highway out of repair

86 Conviction

87 First order

88 Warrant of distress

89 Commitment

90 Second order

47*a* Information for non-repair
48*a* Summons
49*a* First order
} 25 & 26 Vict. c. 61, s. 18

78 Justices' precept to clerk to the justices to give notice to the surveyors to make a return of the state of the highways and verify their accounts, s. 45

79 Clerk to the justices' notice to surveyors thereon

79*a* Surveyor's return of the state of the highways

79*b* Annual returns of receipts and expenditure, 12 & 13 Vict. c. 35

Special Session.

25 Justices' precept to the clerk to the justices of the special sessions to be held throughout the year, s. 45

26 Precept to the clerk to the justices of the special sessions to be held throughout the year

Boundaries.

45 Information to enable justices to fix boundaries of highways lying in two parishes, with summons annexed, s. 58

47 Order

Lopping Trees.

48 Notice from surveyor to an owner of land to cut down, grub up, and carry away trees, &c., growing within 15 feet of the centre of the road, s. 64

49 Information for not lopping trees, &c., s. 65

50 Summons of owner

51 Order

52 Conviction

54 Order of a justice on a surveyor to remove rubbish from highway, s. 73

55 Notice from surveyor to party to remove the same

Carriages.—5 & 6 Will. 4, c. 50.

56 Information against owners and drivers of carriages, s. 78

57 Summons

No.
58 Warrant
59 Conviction
59*a* Ditto, on parchment
61 Commitment

Extraordinary Traffic.—41 & 42 Vict. c. 77, s. 23.

H Complaint
I Summons
J Order
K Warrant of distress
L Certificate of surveyor, s. 13

Turning of.—5 & 6 Will. 4, c. 50.

62 Notice of surveyor to enlarge gateways, s. 81
63 Order of two justices for widening a highway, s. 82
64 Consent of the owner of lands through which a new highway is proposed to be made
65 Notice to the surveyor from a party desirous of stopping up, diverting, or turning a highway, s. 84
66 Notice from surveyor of diverting and turning a highway
67 Certificate of justices who have viewed highways to be widened, s. 85

Unnecessary Highways.—41 & 42 Vict. c. 77, s. 24.

L Notice to owner
M Order declaring highway unnecessary

Penalties.

68 Information for recovery of penalties and forfeitures imposed, s. 103
69 Summons
70 Conviction
70*a* Ditto, on parchment
71 Warrant of distress
72 Commitment for want of distress
73 Commitment where proof is given of the want of distress
80 Summons to attend a justice, ss. 101, 118

Stationery.

All kinds of Stationery required by Highway Boards, including Note Papers and Envelopes, with Name of Board printed or stamped, Copying Presses, Letter Books, &c., kept in Stock. See Special Catalogue, free on application.

DESIGNS SUPPLIED FOR SEALS, ETC.

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ACCOUNTS OF WAYWARDENS.

HIGHWAY PARISHES IN HIGHWAY DISTRICTS.

ORDER OF ACCOUNTS DATED 10TH MAY, 1883.

FORM A.—The Highway Rate and Rate Collection Account Book,

13 by 7½ inches, 15 Lines on a Page.

		Circuit. s. d.	Half-bound. s. d.
6 sheets,	150 names	2 0	- -
12 „	330 „	2 3	- -
1 quire	650 „	3 0	- - 3 6
1½ „	975 „	3 8	- - 4 2
2 quires	1,330 „	4 3	- - 4 9
3 „	2,000 „	5 6	- - 6 0

13 by 15 inches, 36 Lines on a Page.

1 quire,	1,728 names	8 0
2 quires,	3,456 „	12 0
3 „	5,184 „	16 0

Books for any number of names made in a day or two.

FORM B.—Highway Rate Receipt Book.

Books of	50 each	
„	100 „	1 2
„	150 „	1 7
„	200 „	2 0
„	250 „	2 9
„	300 „	3 6
„	400 „	4 6
„	500 „	5 3
„	600 „	6 10

FORM C.—Receipt and Expenditure Account.

In Books	*limp, small books*	3 6
„	*½ quire*	5 0
„	*half-bound, 1 quire*	7 6
„	„ *2 quires*	10 0

FORM D.—Financial Statement.

In Books	*small books*	4 0
„	*half-bound, 1 quire*	8 6
„	*per quire*	5 0

ACCOUNTS OF SURVEYORS.

HIGHWAY PARISHES.

ORDER FOR ACCOUNTS DATED 10TH MAY, 1883.

FORM A.—The Highway Rate and Rate Collection Account Book, 13 by 7½ inches, 15 Lines on a Page.

		Circuit.		Half-bound.	
		s.	*d.*	*s.*	*d.*
6 sheets,	150 names	2	0		
12 „	330 „	2	3		
18 „	495 „	2	8		
1 quire	650 „	3	0	3	6
1½ „	975 „	3	8	4	2
2 quires,	1,330 „	4	3	4	9
3 „	2,000 „	5	6	6	0

13 by 15 inches, 36 Lines on a Page.

1 quire,	1,728 names	8	0
2 quires,	3,456 „	12	0
3 „	5,184 „	16	0

Books for any number of names made in a day or two.

FORM B.—Highway Rate Receipt Book.

Books of	50 each	0	9
„	100 „	1	2
„	150 „	1	8
„	200 „	2	0
„	250 „	2	9
„	300 „	3	6
„	400 „	4	6
„	500 „	5	3

FORM C.—Repairs Expenditure Account, including Manual Labour, Team Labour, Materials, Tradesmen's Bills and Miscellaneous Expenses for Repairs.

In Books	*small*	3	6
„	*limp,* ½ *quire*	5	0
„	*half-bound,* 1 *quire*	7	6
„	„ 2 *quires*	10	0

FORM D.—Receipt and Expenditure Account.

In Books	*small*	4	0
„	*half bound,* 1 *quire*	7	6

SHAW & SONS, Printers and Publishers,

Highway Parishes Books and Forms.

	s.	d.
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